HOUSE BILL NO. 776

INTRODUCED BY SHONTZ, RAMIREZ,
H. HAMMOND, NORMAN

IN THE HOUSE

February 12, 1983	Introduced and referred to Committee on Highways and Transportation.
February 17, 1983	Committee recommend bill do pass as amended. Report adopted.
February 18, 1983	Bill printed and placed on members' desks.
February 19, 1983	Second reading, do pass.
February 21, 1983	Considered correctly engrossed.
February 22, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 1, 1983	Introduced and referred to Committee on State Administration.
March 15, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 16, 1983	Second reading, pass consideration.
March 17, 1983	Second reading, concurred in as amended.
March 19, 1983	Third reading, concurred in. Ayes, 43; Noes, 7.

IN THE HOUSE

March 19, 1983	Returned to House with amendments.
March 31, 1983	Second reading, amendments not concurred in.
	On motion, Conference Committee requested and appointed.
April 16, 1983	Conference Committee dissolved.
	On motion, Free Conference Committee requested and appointed.
April 19, 1983	Free Conference Committee reported.
April 20, 1983	Second reading, Free Conference Committee report adopted.
	Third reading, Free Conference Committee report adopted.
April 21, 1983	Free Conference Committee report adopted by Senate.
	Sent to enrolling.
	Reported correctly enrolled.

HOUSE BILL NO. 776

INTRODUCED BY [signature] Norman

A BILL FOR AN ACT ENTITLED: "AN ACT" REESTABLISHING THE BOARD OF AERONAUTICS UNDER EXISTING STATUTORY AUTHORITY AND RULES AND CHANGING THE QUALIFICATIONS FOR MEMBERSHIP ON THE BOARD; REQUIRING THE BOARD TO APPROVE AIRCRAFT GRANTS AND LOANS; REVISING THE AIR CARRIER LAWS TO LIMIT APPLICATION TO INTRASTATE CARRIERS ONLY; AMENDING SECTIONS 2-8-103, 2-15-1812, 67-3-421, 67-3-422, AND 67-3-424 THROUGH 67-3-429, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Reestablishment. The board of aeronautics, created pursuant to 2-15-1812, is reestablished with its existing statutory authority and rules for 6 years, pursuant to 2-8-122.

Section 2. Section 2-8-103, MCA, is amended to read:

"2-8-103. Agencies to terminate. (1) The following agencies shall terminate on July 1, 1979:

(a) board of abstracters, department of professional and occupational licensing, created by 2-15-1643;

(b) board of real estate, department of professional and occupational licensing, created by 2-15-1642;

(c) state board of warm air heating, ventilation, and air conditioning, department of professional and occupational licensing, created by 2-15-1656;

(d) board of institutions, department of institutions, created by 2-15-2303.

(2) The following agencies shall terminate on July 1, 1981:

(a) board of athletics, department of professional and occupational licensing, created by 2-15-1661;

(b) board of massage therapists, department of professional and occupational licensing, created by 2-15-1627;

(c) board of osteopathic physicians, department of professional and occupational licensing, created by 2-15-1607;

(d) board of podiatry examiners, department of professional and occupational licensing, created by 2-15-1608;

(3) The following units of state government shall terminate on July 1, 1983:

~~(a)--board--of--aeronautics,--department--of--commerce, created-by-2-15-1812;~~

(a) state board of hail insurance, department of agriculture, created by 2-15-3003;

(b) board of horseracing, department of commerce, created by 2-15-1881;

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~~(d)~~(c) board of livestock, department of livestock, created by 2-15-3102;

~~(e)~~(d) board of milk control, department of commerce, created by 2-15-1802;

~~(f)~~(e) board of oil and gas conservation, department of natural resources and conservation, created by 2-15-3303;

~~(g)~~(f) Montana outfitters' council, department of fish, wildlife, and parks, created by 2-15-3403;

~~(h)~~(g) public service commission, department of public service regulation, created by 69-1-102;

~~(i)~~(h) board of water and wastewater operators, department of health and environmental sciences, created by 2-15-2105;

~~(j)~~(i) board of water well contractors, department of commerce, created by 2-15-1862.

(4) The following agencies terminate on July 1, 1985:

(a) the board of public accountants, department of commerce, created by 2-15-1866;

(b) the board of architects, department of commerce, created by 2-15-1871;

(c) state banking board, department of commerce, created by 2-15-1803;

(d) the state electrical board, department of commerce, created by 2-15-1874;

(e) the board of professional engineers and land

surveyors, department of commerce, created by 2-15-1873;

(f) office of commissioner of insurance and the insurance department, state auditor's office, created by 2-15-1902 and 2-15-1903;

(g) office of the securities commissioner, state auditor's office, created by 2-15-1901;

(h) the board of landscape architects, department of commerce, created by 2-15-1872;

(i) the board of county printing, department of commerce, created by 2-15-1811;

(j) the board of plumbers, department of commerce, created by 2-15-1875;

(k) board of physical therapy examiners, department of commerce, created by 2-15-1858.

(5) The following agencies terminate on July 1, 1987:

(a) commission for human rights, department of labor and industry, created by 2-15-1706;

(b) Montana state board of medical examiners, department of commerce, created by 2-15-1841;

(c) board of dentistry, department of commerce, created by 2-15-1842;

(d) board of pharmacists, department of commerce, created by 2-15-1843;

(e) board of nursing, department of commerce, created by 2-15-1844;

(f) board of nursing home administrators, department of commerce, created by 2-15-1845;

(g) board of optometrists, department of commerce, created by 2-15-1846;

(h) board of chiropractors, department of commerce, created by 2-15-1847;

(i) board of radiologic technologists, department of commerce, created by 2-15-1848;

(j) board of speech pathologists and audiologists, department of commerce, created by 2-15-1849;

(k) board of hearing aid dispensers, department of commerce, created by 2-15-1850;

(l) board of psychologists, department of commerce, created by 2-15-1851;

(m) board of veterinarians, department of commerce, created by 2-15-1852;

(n) board of morticians, department of commerce, created by 2-15-1853;

(o) board of barbers, department of commerce, created by 2-15-1856;

(p) board of cosmetologists, department of commerce, created by 2-15-1857;

(q) board of sanitarians, department of commerce, created by 2-15-1861;

(r) board of veterans' affairs, department of social

and rehabilitation services, created by 2-15-2202.

(6) The following agency terminates on July 1, 1989: board of aeronautics, department of commerce, created by 2-15-1812."

Section 3. Section 2-15-1812, MCA, is amended to read:

"2-15-1812. Board of aeronautics -- qualification -- allocation -- quasi-judicial. (1) There is a board of aeronautics.

(2) The board consists of seven members. The members are:

(a) one member of the Montana pilots' association;

(b) one member of the Montana chamber of commerce representing aviation;

(c) one member of the ~~municipal league~~ Montana league of cities and towns representing airport operators;

(d) one member of the Montana county commissioners association;

(e) one person actively engaged in aviation education in this state;

(f) one person representative of interstate commercial airline operators, who must at the time of appointment be an employee or official of an interstate commercial airline operator and a resident of this state;

(g) one person who must at the time of appointment be an active fixed base operator in this state, or an official

of a fixed base operator in this state, of flying services or flying schools.

(3) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.

(4) The board is designated as a quasi-judicial board for purposes of 2-15-124."

Section 4. Section 67-3-421, MCA, is amended to read:

"67-3-421. Regulatory powers of board of aeronautics. The board may:

~~(1) supervise and regulate every air carrier in those matters affecting ticketing, flight reservations, passenger baggage, advertising, passenger convenience and comfort, and transportation of freight;~~

~~(2) after notice to all interested parties and the public and after hearing fix the rates, fares, charges, classifications, and rules of each carrier;~~

~~(3) regulate the accounts of each carrier and require the filing of annual and other reports and of other data by the carriers;~~

~~(4)~~ by general order or otherwise, adopt rules applicable to all intrastate air carriers. The board, in the exercise of the jurisdiction conferred upon it, may make orders and adopt rules affecting intrastate air carriers, notwithstanding the provisions of any ordinance or permit of a town, city, city and county, or county, and in case of

conflict the order or rule of the board prevails."

Section 5. Section 67-3-422, MCA, is amended to read:

"67-3-422. Issuance of certificates of public convenience and necessity. (1) No intrastate air carrier may engage in an operation in this state without first obtaining from the board a certificate of public convenience and necessity authorizing the operation.

(2) An applicant shall submit his written verified application to the board. The application shall be in a form, contain the information, and be accompanied by proof of service upon all intrastate air carriers with which the proposed service is likely to compete and upon other interested parties, as the board requires. Each application shall be accompanied by a fee of $150.

(3) In awarding certificates of public convenience and necessity, the board shall consider the business experience of the particular air carrier in the field of air operations, the financial stability of the carrier, the insurance coverage of the carrier, the type of aircraft which the carrier would employ, proposed routes and minimum schedules to be established, whether the carrier could economically give adequate service to the communities involved, the need for the service, and any other factors which may affect the public interest.

(4) After notice to the interested parties and the

public and after hearing, the board may:

(a) issue the certificate requested;

(b) refuse to issue the certificate;

(c) issue the certificate for the partial exercise only of the privilege sought.

(5) The board may attach terms and conditions to the exercise of the rights granted by the certificate as, in its judgment, the public convenience and necessity require."

Section 6. Section 67-3-424, MCA, is amended to read:

"67-3-424. Suspension -- amendment -- revocation. (1) Upon a finding of an agency of the federal government that an intrastate air carrier is operating in violation of a federal safety law or regulation, the board may suspend and the department shall enforce the suspension of certificates of public convenience and necessity issued by the board.

(2) For any other good cause, the board may, upon notice to the holder of a certificate and opportunity to be heard, suspend, revoke, alter, or amend a certificate."

Section 7. Section 67-3-425, MCA, is amended to read:

"67-3-425. ~~Establishment of rates -- discontinuance~~ Discontinuance of service. ~~(1) An air carrier may, upon prior written approval from the board, after notice to all interested parties and the public and after hearing, establish through rates and joint rates, charges, and classifications between all points served by it under~~

~~certificates or operative rights issued to or possessed by it.~~

~~(2)~~ No intrastate air carrier may discontinue operations to a point without authority of the board, unless the operations are unprofitable. Unprofitable operations may be discontinued upon 30 days' notice to the board and to other persons the board may require, unless within the 30-day period the board, after hearing, finds that the operation is not unprofitable and orders its continuance."

Section 8. Section 67-3-426, MCA, is amended to read:

"67-3-426. Board may require insurance. The board may, upon its motion or upon application of an interested party and after hearing, require an intrastate air carrier to procure and maintain insurance in amounts and upon terms as the board may determine. The board may suspend the certificate of an intrastate air carrier for failure to comply with the insurance regulations established under this section."

Section 9. Section 67-3-427, MCA, is amended to read:

"67-3-427. Enforcement, appeals, and judicial determinations. (1) When a complaint has been filed with the board alleging that an aircraft is being operated without a certificate of public convenience and necessity or when the board believes that ~~67-3-421~~ 67-3-422 through 67-3-429 are being violated, the board shall investigate the operations

and may, after a hearing, make its order requiring the operator of the aircraft to stop an operation in violation of this section. The department shall enforce compliance with the order by means of powers vested in it by law.

(2) The district court has jurisdiction to enforce, by proper decree, injunction, or order, the rates, classifications, rules, and orders made by the board. The proceeding shall be by equitable action in the name of the state and shall be instituted by the attorney general or county attorney when advised by the department that an intrastate air carrier is violating or refusing to comply with a rule, order, rate, or classification made by the board and applicable to that intrastate air carrier. The proceedings shall have precedence over all other business in the district courts except criminal business.

(3) In an action the burden of proof rests upon the defendant, who must show by clear and satisfactory evidence that the rule, order, rate, or classification involved is unreasonable and unjust. If the court decides that the rule, order, rate, or classification is not unreasonable or unjust and that in refusing compliance the intrastate air carrier is failing to fulfill a duty, debt, or obligation, the court shall decree a mandatory and permanent injunction compelling compliance with the rule, order, rate, or classification by the defendant and its officers, agents, servants, and

employees and may grant other relief which may be considered just and proper. A violation of the decree makes the defendant and officer, agent, servant, or employee of the defendant who is in any manner instrumental in the violation guilty of contempt, punishable by a fine not exceeding $1,000 for each offense or by imprisonment of that person until he sufficiently purges himself. The decree remains in effect until the rule, order, rate, or classification is modified or vacated by the board.

(4) An intrastate air carrier may bring an action in the district court of the county where the principal office or place of business is situated or in a county where a classification, rate, toll, charge, rule, or order of the board applies, against the board as defendant to determine whether the classification, rate, toll, charge, rule, or order made or established by the board is just and reasonable. In an action, hearing, or proceeding in any court, the classification, rate, toll, charge, rule, and order made and established by the board shall prima facie be considered just, reasonable, and proper.

(5) Appeals taken to the supreme court from the judgment of a district court under this section have precedence over all other business, except criminal business and original proceedings in that court, and shall be heard and determined as are appeals in civil actions.

(6) All costs and expenses incurred in the hearing, trial, or appeal of an action brought under this section shall be determined and assessed in a manner the court considers just and equitable."

Section 10. Section 67-3-428, MCA, is amended to read:

"67-3-428. Notice of regulation hearings. Notice as required by ~~67-3-421~~ 67-3-422 through 67-3-427 shall be given by publication once a week for 3 successive weeks in a newspaper of general circulation in the county in which the hearing is to be held and by personal service by mailing to all interested parties. However, in the case of the hearings required by ~~67-3-421 and 67-3-425(1)~~ 67-3-425, if no written protest or written request that the hearing be held is received by the board within 5 days after the date of the last publication of the notice, the board may, in its discretion, vacate the hearing and establish the ~~rates, fares, charges, classifications, and~~ rules of the intrastate air carrier without hearing. The notice required by this section shall state that the board may vacate the hearing unless a written protest or request that the hearing be held is received by the board as required by this section."

Section 11. Section 67-3-429, MCA, is amended to read:

"67-3-429. Exceptions. (1) No intrastate air carrier may operate aircraft except in accordance with ~~67-3-421~~ 67-3-422 through 67-3-429.

(2) Sections ~~67-3-421~~ 67-3-422 through 67-3-429 do not apply to:

(a) common carriers of passengers or freight by aircraft which operate within this state under a certificate of public convenience and necessity issued by the federal government; or

(b) aircraft operators who carry passengers for hire, are commonly known as "taxi operators" or "charter operators", operate on an occasional or contract basis, and do not operate as common carriers between terminal points, including intermediate points, if any."

NEW SECTION. Section 12. Airport grants and loans. Any airport grant or loan that the department may be authorized to issue may be issued only after review and approval of the grant or loan request by the board.

NEW SECTION. Section 13. Codification instruction. Section 12 is intended to be codified as an integral part of Title 67, chapter 1, part 3, and the provisions of Title 67, chapter 1, apply to section 12.

NEW SECTION. Section 14. Effective date. This act is effective on passage and approval.

-End-

Approved by Committee
on Highways & Transportation

HOUSE BILL NO. 776

INTRODUCED BY SHONTZ, RAMIREZ,

H. HAMMOND, NORMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE BOARD OF AERONAUTICS UNDER EXISTING STATUTORY AUTHORITY AND RULES AND CHANGING THE QUALIFICATIONS FOR MEMBERSHIP ON THE BOARD; REQUIRING THE BOARD TO APPROVE AIRPORT AND AIRCRAFT GRANTS AND LOANS; ~~REVISING THE AIR CARRIER LAWS TO LIMIT APPLICATION TO INTRASTATE CARRIERS ONLY~~; AMENDING SECTIONS 2-8-103, AND 2-15-1812, ~~67-3-421, 67-3-422, AND 67-3-424 THROUGH 67-3-429~~, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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(b) board of real estate, department of professional and occupational licensing, created by 2-15-1642;

(c) state board of warm air heating, ventilation, and air conditioning, department of professional and occupational licensing, created by 2-15-1656;

(d) board of institutions, department of institutions, created by 2-15-2303.

(2) The following agencies shall terminate on July 1, 1981:

(a) board of athletics, department of professional and occupational licensing, created by 2-15-1661;

(b) board of massage therapists, department of professional and occupational licensing, created by 2-15-1627;

(c) board of osteopathic physicians, department of professional and occupational licensing, created by 2-15-1607;

(d) board of podiatry examiners, department of professional and occupational licensing, created by 2-15-1608;

(3) The following units of state government shall terminate on July 1, 1983:

~~(a) board of aeronautics, department of commerce, created by 2-15-1812;~~

~~(b)~~(a) state board of hail insurance, department of agriculture, created by 2-15-3003;

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~~(c)~~(b) board of horseracing, department of commerce, created by 2-15-1881;

~~(d)~~(c) board of livestock, department of livestock, created by 2-15-3102;

~~(e)~~(d) board of milk control, department of commerce, created by 2-15-1802;

~~(f)~~(e) board of oil and gas conservation, department of natural resources and conservation, created by 2-15-3303;

~~(g)~~(f) Montana outfitters' council, department of fish, wildlife, and parks, created by 2-15-3403;

~~(h)~~(g) public service commission, department of public service regulation, created by 69-1-102;

~~(i)~~(h) board of water and wastewater operators, department of health and environmental sciences, created by 2-15-2105;

~~(j)~~(i) board of water well contractors, department of commerce, created by 2-15-1862.

(4) The following agencies terminate on July 1, 1985:

(a) the board of public accountants, department of commerce, created by 2-15-1866;

(b) the board of architects, department of commerce, created by 2-15-1871;

(c) state banking board, department of commerce, created by 2-15-1803;

(d) the state electrical board, department of

commerce, created by 2-15-1874;

(e) the board of professional engineers and land surveyors, department of commerce, created by 2-15-1873;

(f) office of commissioner of insurance and the insurance department, state auditor's office, created by 2-15-1902 and 2-15-1903;

(g) office of the securities commissioner, state auditor's office, created by 2-15-1901;

(h) the board of landscape architects, department of commerce, created by 2-15-1872;

(i) the board of county printing, department of commerce, created by 2-15-1811;

(j) the board of plumbers, department of commerce, created by 2-15-1875;

(k) board of physical therapy examiners, department of commerce, created by 2-15-1858.

(5) The following agencies terminate on July 1, 1987:

(a) commission for human rights, department of labor and industry, created by 2-15-1706;

(b) Montana state board of medical examiners, department of commerce, created by 2-15-1841;

(c) board of dentistry, department of commerce, created by 2-15-1842;

(d) board of pharmacists, department of commerce, created by 2-15-1843;

(e) board of nursing, department of commerce, created by 2-15-1844;

(f) board of nursing home administrators, department of commerce, created by 2-15-1845;

(g) board of optometrists, department of commerce, created by 2-15-1846;

(h) board of chiropractors, department of commerce, created by 2-15-1847;

(i) board of radiologic technologists, department of commerce, created by 2-15-1848;

(j) board of speech pathologists and audiologists, department of commerce, created by 2-15-1849;

(k) board of hearing aid dispensers, department of commerce, created by 2-15-1850;

(l) board of psychologists, department of commerce, created by 2-15-1851;

(m) board of veterinarians, department of commerce, created by 2-15-1852;

(n) board of morticians, department of commerce, created by 2-15-1853;

(o) board of barbers, department of commerce, created by 2-15-1856;

(p) board of cosmetologists, department of commerce, created by 2-15-1857;

(q) board of sanitarians, department of commerce,

created by 2-15-1861;

(r) board of veterans' affairs, department of social and rehabilitation services, created by 2-15-2202.

~~(6) The following agency terminates on July 1, 1989:~~

~~board of aeronautics, department of commerce, created by 2-15-1812.~~"

Section 3. Section 2-15-1812, MCA, is amended to read:

"2-15-1812. Board of aeronautics -- qualification -- allocation -- quasi-judicial. (1) There is a board of aeronautics.

(2) The board consists of seven members. The members are:

(a) one member of the Montana pilots' association;

(b) one member of the Montana chamber of commerce ~~representing WHOSE PRINCIPAL BUSINESS IS~~ aviation;

(c) one member ~~of the municipal league~~ Montana league ~~of cities and towns~~ representing MONTANA airport operators;

(d) one member of the Montana county commissioners association;

(e) one person actively engaged in aviation education in this state;

(f) one person representative of interstate commercial airline operators, who must at the time of appointment be an employee or official of an interstate commercial airline operator and a resident of this state;

(g) one person who must at the time of appointment be an active fixed base operator in this state, or an official of a fixed base operator in this state, of flying services or flying schools.

(3) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.

(4) The board is designated as a quasi-judicial board for purposes of 2-15-124."

~~Section 4. Section 67-3-421, MCA, is amended to read:~~

~~"67-3-421. Regulatory powers of board of aeronautics. The board may:~~

~~(1) supervise and regulate every air carrier in those matters affecting ticketing, flight reservations, passenger baggage, advertising, passenger convenience and comfort, and transportation of freight;~~

~~(2) after notice to all interested parties and the public and after hearing, fix the rates, fares, charges, classifications, and rules of each carrier;~~

~~(3) regulate the accounts of each carrier and require the filing of annual and other reports and of other data by the carriers;~~

~~(4) by general order or otherwise, adopt rules applicable to all intrastate air carriers. The board, in the exercise of the jurisdiction conferred upon it, may make orders and adopt rules affecting intrastate air carriers,~~

~~notwithstanding the provisions of any ordinance or permit of a town, city, city and county, or county, and in case of conflict the order or rule of the board prevails."~~

~~Section 5. Section 67-3-422, MCA, is amended to read:~~

~~"67-3-422. Issuance of certificates of public convenience and necessity. (1) No intrastate air carrier may engage in an operation in this state without first obtaining from the board a certificate of public convenience and necessity authorizing the operation.~~

~~(2) An applicant shall submit his written verified application to the board. The application shall be in a form, contain the information, and be accompanied by proof of service upon all intrastate air carriers with which the proposed service is likely to compete and upon other interested parties, as the board requires. Each application shall be accompanied by a fee of $150.~~

~~(3) In awarding certificates of public convenience and necessity, the board shall consider the business experience of the particular air carrier in the field of air operations, the financial stability of the carrier, the insurance coverage of the carrier, the type of aircraft which the carrier would employ, proposed routes and minimum schedules to be established, whether the carrier could economically give adequate service to the communities involved, the need for the service, and any other factors~~

which may affect the public interest.

(4) After notice to the interested parties and the public and after hearing, the board may:

(a) issue the certificate requested;

(b) refuse to issue the certificate;

(c) issue the certificate for the partial exercise only of the privilege sought.

(5) The board may attach terms and conditions to the exercise of the rights granted by the certificate as, in its judgment, the public convenience and necessity require."

Section 6. Section 67-3-424, MCA, is amended to read:

"67-3-424. Suspension -- amendment -- revocation. (1) Upon a finding of an agency of the federal government that an intrastate air carrier is operating in violation of a federal safety law or regulation, the board may suspend and the department shall enforce the suspension of certificates of public convenience and necessity issued by the board.

(2) For any other good cause, the board may, upon notice to the holder of a certificate and opportunity to be heard, suspend, revoke, alter, or amend a certificate."

Section 7. Section 67-3-425, MCA, is amended to read:

"67-3-425. Establishment of rates -- discontinuance. Discontinuance of services. (1) An air carrier may, upon prior written approval from the board, after notice to all interested parties and the public and after hearing,

establish through rates and joint rates, charges, and classifications between all points served by it under certificates or operative rights issued to or possessed by it.

(2) No intrastate air carrier may discontinue operations to a point without authority of the board, unless the operations are unprofitable. Unprofitable operations may be discontinued upon 30 days' notice to the board and to other persons the board may require, unless within the 30-day period the board, after hearing, finds that the operation is not unprofitable and orders its continuance."

Section 8. Section 67-3-426, MCA, is amended to read:

"67-3-426. Board may require insurance. The board may, upon its motion or upon application of an interested party and after hearing, require an intrastate air carrier to procure and maintain insurance in amounts and upon terms as the board may determine. The board may suspend the certificate of an intrastate air carrier for failure to comply with the insurance regulations established under this section."

Section 9. Section 67-3-427, MCA, is amended to read:

"67-3-427. Enforcement -- appeals -- and judicial determinations. (1) When a complaint has been filed with the board alleging that an aircraft is being operated without a certificate of public convenience and necessity or

when the board believes that 67-3-421 67-3-422 through 67-3-429 are being violated, the board shall investigate the operations and may, after a hearing, make its order requiring the operator of the aircraft to stop an operation in violation of this section. The department shall enforce compliance with the order by means of powers vested in it by law.

(2) The district court has jurisdiction to enforce, by proper decree, injunction, or order, the rates, classifications, rules, and orders made by the board. The proceeding shall be by equitable action in the name of the state and shall be instituted by the attorney general or county attorney when advised by the department that an intrastate air carrier is violating or refusing to comply with a rule, order, rate, or classification made by the board and applicable to that intrastate air carriers. The proceedings shall have precedence over all other business in the district courts except criminal business.

(3) In an action the burden of proof rests upon the defendant, who must show by clear and satisfactory evidence that the rule, order, rate, or classification involved is unreasonable and unjust. If the court decides that the rule, order, rate, or classification is not unreasonable or unjust and that in refusing compliance the intrastate air carrier is failing to fulfill a duty, debt, or obligation, the court

shall decree a mandatory and permanent injunction compelling compliance with the rule, order, rate, or classification by the defendant and its officers, agents, servants, and employees and may grant other relief which may be considered just and proper. A violation of the decree makes the defendant and officer, agent, servant, or employee of the defendant who is in any manner instrumental in the violation guilty of contempt, punishable by a fine not exceeding $1,000 for each offense or by imprisonment of that person until he sufficiently purges himself. The decree remains in effect until the rule, order, rate, or classification is modified or vacated by the board.

(4) An intrastate air carrier may bring an action in the district court of the county where the principal office or place of business is situated or in a county where a classification, rate, toll, charge, rule, or order of the board applies against the board as defendant to determine whether the classification, rate, toll, charge, rule, or order made or established by the board is just and reasonable in an action, hearing, or proceeding in any court. The classification, rate, toll, charge, rule, and order made and established by the board shall prima facie be considered just, reasonable, and proper.

(5) Appeals taken to the supreme court from the judgment of a district court under this section have

precedence over all other business, except criminal business and original proceedings in that court, and shall be heard and determined as are appeals in civil actions.

(6) All costs and expenses incurred in the hearing, trial, or appeal of an action brought under this section shall be determined and assessed in a manner the court considers just and equitable."

Section 10. Section 67-3-428, MCA, is amended to read:

"67-3-428. Notice of regulation hearings. Notice as required by 67-3-421 67-3-422 through 67-3-427 shall be given by publication once a week for 3 successive weeks in a newspaper of general circulation in the county in which the hearing is to be held and by personal service by mailing to all interested parties. However, in the case of the hearings required by 67-3-421 and 67-3-425(1) 67-3-425, if no written protest or written request that the hearing be held is received by the board within 5 days after the date of the last publication of the notice, the board may, in its discretion, vacate the hearing and establish the rates, fares, charges, classifications, and rules of the intrastate air carrier without hearing. The notice required by this section shall state that the board may vacate the hearing unless a written protest or request that the hearing be held is received by the board as required by this section."

Section 11. Section 67-3-429, MCA, is amended to read:

"67-3-429. Exceptions. (1) No intrastate air carrier may operate aircraft except in accordance with 67-3-421 67-3-422 through 67-3-429.

(2) Sections 67-3-421 67-3-422 through 67-3-429 do not apply to:

(a) common carriers of passengers or freight by aircraft which operate within this state under a certificate of public convenience and necessity issued by the federal government; or

(b) aircraft operators who carry passengers for hire, are commonly known as "taxi operators" or "charter operators", operate on an occasional or contract basis, and do not operate as common carriers between terminal points, including intermediate points, if any."

NEW SECTION. Section 4. Airport AND AIRCRAFT grants and loans. Any airport AND AIRCRAFT grant or loan that the department may be authorized to issue may be issued only after review and approval of the grant or loan request by the board.

NEW SECTION. Section 5. Codification instruction. Section 12 4 is intended to be codified as an integral part of Title 67, chapter 1, part 3, and the provisions of Title 67, chapter 1, apply to section 12 4.

NEW SECTION. Section 6. Effective date. This act is effective on passage and approval.

-End-

HOUSE BILL NO. 776

INTRODUCED BY SHONTZ, RAMIREZ,

H. HAMMOND, NORMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE BOARD OF AERONAUTICS UNDER EXISTING STATUTORY AUTHORITY AND RULES AND CHANGING THE QUALIFICATIONS FOR MEMBERSHIP ON THE BOARD; REQUIRING THE BOARD TO APPROVE AIRPORT AND AIRCRAFT GRANTS AND LOANS; ~~REVISING THE AIR CARRIER LAWS TO LIMIT APPLICATION TO INTRASTATE CARRIERS ONLY~~; AMENDING SECTIONS 2-8-103, AND 2-15-1812, ~~67-3-421, 67-3-422, AND 67-3-424 THROUGH 67-3-429~~, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Reestablishment. The board of aeronautics, created pursuant to 2-15-1812, is reestablished with its existing statutory authority and rules for 6 years, pursuant to 2-8-122.

Section 2. Section 2-8-103, MCA, is amended to read:

"2-8-103. Agencies to terminate. (1) The following agencies shall terminate on July 1, 1979:

(a) board of abstracters, department of professional and occupational licensing, created by 2-15-1643;

(b) board of real estate, department of professional and occupational licensing, created by 2-15-1642;

(c) state board of warm air heating, ventilation, and air conditioning, department of professional and occupational licensing, created by 2-15-1656;

(d) board of institutions, department of institutions, created by 2-15-2303.

(2) The following agencies shall terminate on July 1, 1981:

(a) board of athletics, department of professional and occupational licensing, created by 2-15-1661;

(b) board of massage therapists, department of professional and occupational licensing, created by 2-15-1627;

(c) board of osteopathic physicians, department of professional and occupational licensing, created by 2-15-1607;

(d) board of podiatry examiners, department of professional and occupational licensing, created by 2-15-1608~~;~~.

(3) The following units of state government shall terminate on July 1, 1983:

~~(a) board of aeronautics, department of commerce, created by 2-15-1812;~~

~~(b)~~ (a) state board of hail insurance, department of agriculture, created by 2-15-3003;

THIRD READING

~~(e)~~(b) board of horseracing, department of commerce, created by 2-15-1881;

~~(d)~~(c) board of livestock, department of livestock, created by 2-15-3102;

~~(e)~~(d) board of milk control, department of commerce, created by 2-15-1802;

~~(f)~~(e) board of oil and gas conservation, department of natural resources and conservation, created by 2-15-3303;

~~(g)~~(f) Montana outfitters' council, department of fish, wildlife, and parks, created by 2-15-3403;

~~(h)~~(g) public service commission, department of public service regulation, created by 69-1-102;

~~(i)~~(h) board of water and wastewater operators, department of health and environmental sciences, created by 2-15-2105;

~~(j)~~(i) board of water well contractors, department of commerce, created by 2-15-1862.

(4) The following agencies terminate on July 1, 1985:

(a) the board of public accountants, department of commerce, created by 2-15-1866;

(b) the board of architects, department of commerce, created by 2-15-1871;

(c) state banking board, department of commerce, created by 2-15-1803;

(d) the state electrical board, department of

commerce, created by 2-15-1874;

(e) the board of professional engineers and land surveyors, department of commerce, created by 2-15-1873;

(f) office of commissioner of insurance and the insurance department, state auditor's office, created by 2-15-1902 and 2-15-1903;

(g) office of the securities commissioner, state auditor's office, created by 2-15-1901;

(h) the board of landscape architects, department of commerce, created by 2-15-1872;

(i) the board of county printing, department of commerce, created by 2-15-1811;

(j) the board of plumbers, department of commerce, created by 2-15-1875;

(k) board of physical therapy examiners, department of commerce, created by 2-15-1858.

(5) The following agencies terminate on July 1, 1987:

(a) commission for human rights, department of labor and industry, created by 2-15-1706;

(b) Montana state board of medical examiners, department of commerce, created by 2-15-1841;

(c) board of dentistry, department of commerce, created by 2-15-1842;

(d) board of pharmacists, department of commerce, created by 2-15-1843;

(e) board of nursing, department of commerce, created by 2-15-1844;

(f) board of nursing home administrators, department of commerce, created by 2-15-1845;

(g) board of optometrists, department of commerce, created by 2-15-1846;

(h) board of chiropractors, department of commerce, created by 2-15-1847;

(i) board of radiologic technologists, department of commerce, created by 2-15-1848;

(j) board of speech pathologists and audiologists, department of commerce, created by 2-15-1849;

(k) board of hearing aid dispensers, department of commerce, created by 2-15-1850;

(l) board of psychologists, department of commerce, created by 2-15-1851;

(m) board of veterinarians, department of commerce, created by 2-15-1852;

(n) board of morticians, department of commerce, created by 2-15-1853;

(o) board of barbers, department of commerce, created by 2-15-1856;

(p) board of cosmetologists, department of commerce, created by 2-15-1857;

(q) board of sanitarians, department of commerce,

created by 2-15-1861;

(r) board of veterans' affairs, department of social and rehabilitation services, created by 2-15-2202.

~~(6) The following agency terminates on July 1, 1989: board of aeronautics, department of commerce, created by 2-15-1812.~~"

Section 3. Section 2-15-1812, MCA, is amended to read:

"2-15-1812. Board of aeronautics -- qualification -- allocation -- quasi-judicial. (1) There is a board of aeronautics.

(2) The board consists of seven members. The members are:

(a) one member of the Montana pilots' association;

(b) one member of the Montana chamber of commerce ~~representing~~ WHOSE PRINCIPAL BUSINESS IS aviation;

(c) one member ~~of the municipal league~~ Montana league of cities and towns representing MONTANA airport operators;

(d) one member of the Montana county commissioners association;

(e) one person actively engaged in aviation education in this state;

(f) one person representative of interstate commercial airline operators, who must at the time of appointment be an employee or official of an interstate commercial airline operator and a resident of this state;

(g) one person who must at the time of appointment be an active fixed base operator in this state, or an official of a fixed base operator in this state, of flying services or flying schools.

(3) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.

(4) The board is designated as a quasi-judicial board for purposes of 2-15-124."

~~Section 4. Section 67-3-421, MCA, is amended to read:~~

~~"67-3-421. Regulatory powers of board of aeronautics. The board may:~~

~~(1) supervise and regulate every air carrier in those matters affecting ticketing, flight reservations, passenger baggage, advertising, passenger convenience and comfort, and transportation of freight;~~

~~(2) after notice to all interested parties and the public and after hearing, fix the rates, fares, charges, classifications, and rules of each carrier;~~

~~(3) regulate the accounts of each carrier and require the filing of annual and other reports and of other data by the carriers;~~

~~(4) by general order or otherwise adopt rules applicable to all intrastate air carriers. The board, in the exercise of the jurisdiction conferred upon it, may make orders and adopt rules affecting intrastate air carriers,~~

~~notwithstanding the provisions of any ordinance or permit of a town, city, city and county, or county. And in case of conflict the order or rule of the board prevails."~~

~~Section 5. Section 67-3-422, MCA, is amended to read:~~

~~"67-3-422. Issuance of certificates of public convenience and necessity. (1) No intrastate air carrier may engage in an operation in this state without first obtaining from the board a certificate of public convenience and necessity authorizing the operation.~~

~~(2) An applicant shall submit his written verified application to the board. The application shall be in a form, contain the information, and be accompanied by proof of service upon all intrastate air carriers with which the proposed service is likely to compete and upon other interested parties as the board requires. Each application shall be accompanied by a fee of $150.~~

~~(3) In awarding certificates of public convenience and necessity, the board shall consider the business experience of the particular air carrier in the field of air operations, the financial stability of the carrier, the insurance coverage of the carrier, the type of aircraft which the carrier would employ, proposed routes and minimum schedules to be established, whether the carrier could economically give adequate service to the communities involved, the need for the service, and any other factors~~

which may affect the public interest.

(4) After notice to the interested parties and the public and after hearing, the board may:

(a) issue the certificate requested;

(b) refuse to issue the certificate;

(c) issue the certificate for the partial exercise only of the privilege sought.

(5) The board may attach terms and conditions to the exercise of the rights granted by the certificate as it in its judgment, the public convenience and necessity require."

Section 6. Section 67-3-424, MCA, is amended to read:

"67-3-424. Suspension -- amendment -- revocation. (1) Upon a finding of an agency of the federal government that an interstate air carrier is operating in violation of a federal safety law or regulation, the board may suspend and the department shall enforce the suspension of certificates of public convenience and necessity issued by the board.

(2) For any other good cause, the board may, upon notice to the holder of a certificate and opportunity to be heard, suspend, revoke, alter, or amend a certificate."

Section 7. Section 67-3-425, MCA, is amended to read:

"67-3-425. Establishment of rates -- discontinuance. Discontinuance of services. (1) An air carrier may, upon prior written approval from the board, after notice to all interested parties and the public and after hearing, establish through rates and joint rates, charges, and classifications between all points served by it under certificates or operative rights issued to or possessed by it.

(2) No interstate air carrier may discontinue operations to a point without authority of the board, unless the operations are unprofitable. Unprofitable operations may be discontinued upon 30 days' notice to the board and to other persons the board may require, unless within the 30-day period the board, after hearing, finds that the operation is not unprofitable and orders its continuance."

Section 8. Section 67-3-426, MCA, is amended to read:

"67-3-426. Board may require insurance. The board may, upon its motion or upon application of an interested party and after hearing, require an interstate air carrier to procure and maintain insurance in amounts and upon terms as the board may determine. The board may suspend the certificate of an interstate air carrier for failure to comply with the insurance regulations established under this section."

Section 9. Section 67-3-427, MCA, is amended to read:

"67-3-427. Enforcement -- appeals -- and -- judicial determinations. (1) When a complaint has been filed with the board alleging that an aircraft is being operated without a certificate of public convenience and necessity or

when the board believes that 67-3-421 67-3-422 through 67-3-429 are being violated, the board shall investigate the operations and may, after a hearing, make its order requiring the operator of the aircraft to stop an operation in violation of this section. The department shall enforce compliance with the order by means of powers vested in it by law.

(2) The district court has jurisdiction to enforce, by proper decree, injunction, or order, the rates, classifications, rules, and orders made by the board. The proceeding shall be by equitable action in the name of the state and shall be instituted by the attorney general or county attorney when advised by the department that an interstate air carrier is violating or refusing to comply with a rule, order, rate, or classification made by the board and applicable to that interstate air carrier. The proceedings shall have precedence over all other business in the district courts except criminal business.

(3) In an action the burden of proof rests upon the defendant, who must show by clear and satisfactory evidence that the rule, order, rate, or classification involved is unreasonable and unjust. If the court decides that the rule, order, rate, or classification is not unreasonable or unjust and that in refusing compliance the interstate air carrier is failing to fulfill a duty, debt, or obligation, the court

shall decree a mandatory and permanent injunction compelling compliance with the rule, order, rate, or classification by the defendant and its officers, agents, servants, and employees and may grant other relief which may be considered just and proper. A violation of the decree makes the defendant and officer, agent, servant, or employee of the defendant who is in any manner instrumental in the violation guilty of contempt, punishable by a fine not exceeding $1,000 for each offense or by imprisonment of that person until he sufficiently purges himself. The decree remains in effect until the rule, order, rate, or classification is modified or vacated by the board.

(4) An interstate air carrier may bring an action in the district court of the county where the principal office or place of business is situated or in a county where a classification, rate, tariff, charge, rule, or order of the board applies against the board as defendant to determine whether the classification, rate, tariff, charge, rule, or order made or established by the board is just and reasonable in an action, hearing, or proceeding in any court. The classification, rate, tariff, charge, rule, and order made and established by the board shall prima facie be considered just, reasonable, and proper.

(5) Appeals taken to the supreme court from the judgment of a district court under this section have

~~precedence over all other business, except criminal business and original proceedings in that court, and shall be heard and determined as are appeals in civil actions.~~

~~(6) All costs and expenses incurred in the hearing, trial, or appeal of an action brought under this section shall be determined and assessed in a manner the court considers just and equitable.~~"

~~Section 10. Section 67-3-428, MCA, is amended to read:~~

~~"67-3-428. Notice of regulation hearings. Notice as required by 67-3-421 67-3-422 through 67-3-427 shall be given by publication once a week for 3 successive weeks in a newspaper of general circulation in the county in which the hearing is to be held and by personal service by mailing to all interested parties. However, in the case of the hearings required by 67-3-421 and 67-3-425(1) 67-3-425, if no written protest or written request that the hearing be held is received by the board within 5 days after the date of the last publication of the notice, the board may, in its discretion, vacate the hearing and establish the rates, fares, charges, classifications, and rules of the intrastate air carrier without hearing. The notice required by this section shall state that the board may vacate the hearing unless a written protest or request that the hearing be held is received by the board as required by this section.~~"

~~Section 11. Section 67-3-429, MCA, is amended to read:~~

~~"67-3-429. Exceptions. (1) No intrastate air carrier may operate aircraft except in accordance with 67-3-421 67-3-422 through 67-3-429.~~

~~(2) Sections 67-3-421 67-3-422 through 67-3-429 do not apply to~~

~~(a) common carriers of passengers or freight by aircraft which operate within this state under a certificate of public convenience and necessity issued by the federal government; or~~

~~(b) aircraft operators who carry passengers for hire are commonly known as "taxi operators" or "charter operators", operate on an occasional or contract basis, and do not operate as common carriers between terminal points, including intermediate points, if any.~~"

NEW SECTION. Section 4. Airport AND AIRCRAFT grants and loans. Any airport AND AIRCRAFT grant or loan that the department may be authorized to issue may be issued only after review and approval of the grant or loan request by the board.

NEW SECTION. Section 5. Codification instruction. Section 12 4 is intended to be codified as an integral part of Title 67, chapter 1, part 3, and the provisions of Title 67, chapter 1, apply to section 12 4.

NEW SECTION. Section 6. Effective date. This act is effective on passage and approval.

-End-

March 15, 1983

SENATE STANDING COMMITTEE REPORT
(State Administration)

That House Bill No. 776 be amended as follows:

1. Title, line 8.
   Strike: "AND AIRCRAFT"

2. Page 6, line 15.
   Strike: "WHOSE PRINCIPAL BUSINESS IS aviation"

3. Page 6, lines 20 and 21.
   Following: "(e)"
   Strike: remainder of lines 6 and 7 in their entirety.
   Insert: "one representative of the Montana airport management association;"

4. Page 14, line 15.
   Strike: "AND AIRCRAFT"

5. Page 14, line 16.
   Strike: "AND AIRCRAFT"

March 17, 1983

SENATE COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 776 be amended as follows:

1. Page 6, lines 16 and 17.
Following: "(c)"
Strike: lines 16 and 17 in their entirety
Insert: "one representative of the Montana airport management association;"

2. Page 6, lines 20 and 21.
Strike: Senate Standing Committee Amendment No. 3 (March 15, 1983)

March 17, 1983

SENATE COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 776, Senate Standing Committee Report, (State Administration) Amendment No. 3, be amended as follows:

1. Page 6, lines 20 and 21.
Following: "(e)
Strike: remainder of lines 20 and 21 in their entirety
Insert: "one representative of the Montana Airport Management Association;"

HOUSE BILL NO. 776

INTRODUCED BY SHONTZ, RAMIREZ,

H. HAMMOND, NORMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE BOARD OF AERONAUTICS UNDER EXISTING STATUTORY AUTHORITY AND RULES AND CHANGING THE QUALIFICATIONS FOR MEMBERSHIP ON THE BOARD; REQUIRING THE BOARD TO APPROVE AIRPORT AND AIRCRAFT GRANTS AND LOANS; ~~REVISING THE AIR CARRIER LAWS TO LIMIT APPLICATION TO INTRASTATE CARRIERS ONLY~~; AMENDING SECTIONS 2-8-103, AND 2-15-1812, ~~67-3-421, 67-3-422, AND 67-3-424 THROUGH 67-3-429~~, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Reestablishment. The board of aeronautics, created pursuant to 2-15-1812, is reestablished with its existing statutory authority and rules for 6 years, pursuant to 2-8-122.

Section 2. Section 2-8-103, MCA, is amended to read:

"2-8-103. Agencies to terminate. (1) The following agencies shall terminate on July 1, 1979:

(a) board of abstracters, department of professional and occupational licensing, created by 2-15-1643;

(b) board of real estate, department of professional and occupational licensing, created by 2-15-1642;

(c) state board of warm air heating, ventilation, and air conditioning, department of professional and occupational licensing, created by 2-15-1656;

(d) board of institutions, department of institutions, created by 2-15-2303.

(2) The following agencies shall terminate on July 1, 1981:

(a) board of athletics, department of professional and occupational licensing, created by 2-15-1661;

(b) board of massage therapists, department of professional and occupational licensing, created by 2-15-1627;

(c) board of osteopathic physicians, department of professional and occupational licensing, created by 2-15-1607;

(d) board of podiatry examiners, department of professional and occupational licensing, created by 2-15-1603~~;~~.

(3) The following units of state government shall terminate on July 1, 1983:

~~(a) board of aeronautics, department of commerce, created by 2-15-1812;~~

~~(b)~~(a) state board of hail insurance, department of agriculture, created by 2-15-3003;

REFERENCE BILL

~~(e)~~(b) board of horseracing, department of commerce, created by 2-15-1881;

~~(d)~~(c) board of livestock, department of livestock, created by 2-15-3102;

~~(e)~~(d) board of milk control, department of commerce, created by 2-15-1802;

~~(f)~~(e) board of oil and gas conservation, department of natural resources and conservation, created by 2-15-3303;

~~(g)~~(f) Montana outfitters' council, department of fish, wildlife, and parks, created by 2-15-3403;

~~(h)~~(g) public service commission, department of public service regulation, created by 69-1-102;

~~(i)~~(h) board of water and wastewater operators, department of health and environmental sciences, created by 2-15-2105;

~~(j)~~(i) board of water well contractors, department of commerce, created by 2-15-1862.

(4) The following agencies terminate on July 1, 1985:

(a) the board of public accountants, department of commerce, created by 2-15-1866;

(b) the board of architects, department of commerce, created by 2-15-1871;

(c) state banking board, department of commerce, created by 2-15-1803;

(d) the state electrical board, department of

commerce, created by 2-15-1874;

(e) the board of professional engineers and land surveyors, department of commerce, created by 2-15-1873;

(f) office of commissioner of insurance and the insurance department, state auditor's office, created by 2-15-1902 and 2-15-1903;

(g) office of the securities commissioner, state auditor's office, created by 2-15-1901;

(h) the board of landscape architects, department of commerce, created by 2-15-1872;

(i) the board of county printing, department of commerce, created by 2-15-1811;

(j) the board of plumbers, department of commerce, created by 2-15-1875;

(k) board of physical therapy examiners, department of commerce, created by 2-15-1858.

(5) The following agencies terminate on July 1, 1987:

(a) commission for human rights, department of labor and industry, created by 2-15-1706;

(b) Montana state board of medical examiners, department of commerce, created by 2-15-1841;

(c) board of dentistry, department of commerce, created by 2-15-1842;

(d) board of pharmacists, department of commerce, created by 2-15-1843;

(e) board of nursing, department of commerce, created by 2-15-1844;

(f) board of nursing home administrators, department of commerce, created by 2-15-1845;

(g) board of optometrists, department of commerce, created by 2-15-1846;

(h) board of chiropractors, department of commerce, created by 2-15-1847;

(i) board of radiologic technologists, department of commerce, created by 2-15-1848;

(j) board of speech pathologists and audiologists, department of commerce, created by 2-15-1849;

(k) board of hearing aid dispensers, department of commerce, created by 2-15-1850;

(l) board of psychologists, department of commerce, created by 2-15-1851;

(m) board of veterinarians, department of commerce, created by 2-15-1852;

(n) board of morticians, department of commerce, created by 2-15-1853;

(o) board of barbers, department of commerce, created by 2-15-1856;

(p) board of cosmetologists, department of commerce, created by 2-15-1857;

(q) board of sanitarians, department of commerce,

created by 2-15-1861;

(r) board of veterans' affairs, department of social and rehabilitation services, created by 2-15-2202.

~~(6) The following agency terminates on July 1, 1989:~~

~~board of aeronautics, department of commerce, created by 2-15-1812.~~"

Section 3. Section 2-15-1812, MCA, is amended to read:

"2-15-1812. Board of aeronautics -- qualification -- allocation -- quasi-judicial. (1) There is a board of aeronautics.

(2) The board consists of seven members. The members are:

(a) one member of the Montana pilots' association;

(b) one member of the Montana chamber of commerce ~~representing WHOSE PRINCIPAL BUSINESS IS~~ aviation;

(c) ~~one member of the municipal league~~ ~~Montana league of cities and towns~~ ~~representing~~ MONTANA ~~airport operators~~ ONE REPRESENTATIVE OF THE MONTANA AIRPORT MANAGEMENT ASSOCIATION;

(d) one member of the Montana county commissioners association;

(e) one person actively engaged in aviation education in this state;

(f) one person representative of interstate commercial airline operators, who must at the time of appointment be an

employee or official of an interstate commercial airline operator and a resident of this state;

(g) one person who must at the time of appointment be an active fixed base operator in this state, or an official of a fixed base operator in this state, of flying services or flying schools.

(3) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.

(4) The board is designated as a quasi-judicial board for purposes of 2-15-124."

~~Section 4. Section 67-3-421, MCA, is amended to read:~~

~~"67-3-421. Regulatory powers of board of aeronautics. The board may:~~

~~(1) supervise and regulate every air carrier in those matters affecting ticketing, flight reservations, passenger baggage, advertising, passenger convenience and comfort, and transportation of freight;~~

~~(2) after notice to all interested parties and the public and after hearing, fix the rates, fares, charges, classifications, and rules of each carrier;~~

~~(3) regulate the accounts of each carrier and require the filing of annual and other reports and of other data by the carriers;~~

~~(4) by general order or otherwise, adopt rules applicable to all interstate air carriers. The board, in the~~

~~exercise of the jurisdiction conferred upon it, may make orders and adopt rules affecting intrastate air carriers notwithstanding the provisions of any ordinance or permit of a town, city, city and county, or county, and in case of conflict the order or rule of the board prevails.~~"

~~Section 5. Section 67-3-422, MCA, is amended to read:~~

~~"67-3-422. Issuance of certificates of public convenience and necessity. (1) No intrastate air carrier may engage in an operation in this state without first obtaining from the board a certificate of public convenience and necessity authorizing the operation.~~

~~(2) An applicant shall submit his written verified application to the board. The application shall be in a form, contain the information, and be accompanied by proof of service upon all intrastate air carriers with which the proposed service is likely to compete and upon other interested parties as the board requires. Each application shall be accompanied by a fee of $150.~~

~~(3) In awarding certificates of public convenience and necessity, the board shall consider the business experience of the particular air carrier in the field of air operations, the financial stability of the carrier, the insurance coverage of the carrier, the type of aircraft which the carrier would employ, proposed routes and minimum schedules to be established, whether the carrier could~~

economically--give--adequate--service--to--the---communities involved,--the--need--for-the-service,-and-any-other-factors which-may-affect-the-public-interest.

(4)--After-notice-to-the--interested--parties--and--the public-and-after-hearing,-the-board-may:

(a)--issue-the-certificate-requested;

(b)--refuse-to-issue-the-certificate;

(c)--issue--the--certificate--for--the-partial-exercise only-of-the-privilege-sought.

(5)--The-board-may-attach-terms-and-conditions--to--the exercise-of-the-rights-granted-by-the-certificate-as,-in-its judgment,-the-public-convenience-and-necessity-requires."

Section-6.--Section--67-3-424,-MCA,-is-amended-to-read:

"67-3-424.--Suspension----amendment----revocation.--(1) Upon-a-finding-of-an-agency-of-the-federal--government--that an--intrastate air--carrier--is-operating-in-violation-of-a federal-safety-law-or-regulation,-the-board-may-suspend--and the--department-shall-enforce-the-suspension-of-certificates of-public-convenience-and-necessity-issued-by-the-board.

(2)--For-any-other-good--cause,--the--board--may,--upon notice--to-the-holder-of-a-certificate-and-opportunity-to-be heard,-suspend,-revoke,-alter,-or-amend-a-certificate."

Section-7.--Section-67-3-425,-MCA,-is-amended-to--read:

"67-3-425.--Establishment--of--rates-----discontinuance Discontinuance of-service.--(1)-An--air--carrier--may,--upon

prior--written--approval-from-the-board,-after-notice-to-all interested--parties--and--the--public--and--after---hearing, establish--through--rates--and--joint--rates,--charges,--and classifications--between--all--points--served--by--it--under certificates--or--operative-rights-issued-to-or-possessed-by it.

(2)--No intrastate air---carrier---may---discontinue operations-to-a-point-without-authority-of-the-board,-unless the--operations--are--unprofitable.--Unprofitable-operations may-be-discontinued-upon-30-days'-notice-to-the-board-and-to other-persons-the--board--may--require,--unless--within--the 30-day--period--the--board,--after--hearing,--finds-that-the operation-is-not-unprofitable-and-orders--its--continuance."

Section-8.--Section--67-3-426,-MCA,-is-amended-to-read:

"67-3-426.--Board-may--require--insurance.---The--board may,--upon--its--motion-or-upon-application-of-an-interested party-and-after-hearing,-require-an intrastate air--carrier to--procure-and-maintain-insurance-in-amounts-and-upon-terms as-the-board--may--determine.--The--board--may--suspend--the certificate--of--an intrastate air--carrier-for-failure-to comply-with-the-insurance-regulations-established-under-this section."

Section-9.--Section-67-3-427,-MCA,-is-amended-to--read:

"67-3-427.--Enforcement,----appeals,----and----judicial determinations.--(1)-When-a-complaint-has--been--filed--with

the board alleging that an aircraft is being operated without a certificate of public convenience and necessity or when the board believes that 67-3-421 67-3-422 through 67-3-429 are being violated, the board shall investigate the operations and may, after a hearing, make its order requiring the operator of the aircraft to stop an operation in violation of this section. The department shall enforce compliance with the order by means of powers vested in it by law.

(2) The district court has jurisdiction to enforce, by proper decree, injunction, or order, the rates, classifications, rules, and orders made by the board. The proceeding shall be by equitable action in the name of the state and shall be instituted by the attorney general or county attorney when advised by the department that an interstate air carrier is violating or refusing to comply with a rule, order, rate, or classification made by the board and applicable to that interstate air carrier. The proceedings shall have precedence over all other business in the district courts except criminal business.

(3) In an action the burden of proof rests upon the defendant, who must show by clear and satisfactory evidence that the rule, order, rate, or classification involved is unreasonable and unjust. If the court decides that the rule, order, rate, or classification is not unreasonable or unjust

and that in refusing compliance the interstate air carrier is failing to fulfill a duty, debt, or obligation, the court shall decree a mandatory and permanent injunction compelling compliance with the rule, order, rate, or classification by the defendant and its officers, agents, servants, and employees and may grant other relief which may be considered just and proper. A violation of the decree makes the defendant and officer, agent, servant, or employee of the defendant who is in any manner instrumental in the violation guilty of contempt, punishable by a fine not exceeding $1,000 for each offense or by imprisonment of that person until he sufficiently purges himself. The decree remains in effect until the rule, order, rate, or classification is modified or vacated by the board.

(4) An interstate air carrier may bring an action in the district court of the county where the principal office or place of business is situated or in a county where a classification, rate, tolls, charge, rule, or order of the board applies, against the board as defendant to determine whether the classification, rate, tolls, charge, rule, or order made or established by the board is just and reasonable. In an action, hearing, or proceeding in any court, the classification, rate, tolls, charge, rule, and order made and established by the board shall prima facie be considered just, reasonable, and proper.

~~(5)--Appeals--taken--to--the--supreme--court--from--the judgment--of--a--district--court--under--this--section--have precedence-over-all-other-business,-except-criminal-business and--original--proceedings-in-that-court,-and-shall-be-heard and-determined-as-are-appeals-in-civil-actions.~~

~~(6)--All-costs-and-expenses-incurred--in--the--hearing, trial,--or--appeal--of--an-action-brought-under-this-section shall-be-determined-and--assessed--in--a--manner--the--court considers-just-and-equitable.~~"

~~Section-10.--Section-67-3-428,-MCA,-is-amended-to-read:~~

~~"67-3-428.--Notice--of--regulation-hearings.--Notice-as required-by-67-3-421 67-3-422 through--67-3-427--shall--be given-by-publication-once-a-week-for-3-successive-weeks-in-a newspaper--of-general-circulation-in-the-county-in-which-the hearing-is-to-be-held-and-by-personal-service-by-mailing--to all-interested-parties.-However,-in-the-case-of-the-hearings required-by-67-3-421-and-67-3-425(1) 67-3-425,-if-no-written protest--or--written--request--that--the--hearing-be-held-is received-by-the-board-within-5-days-after-the--date--of--the last--publication--of--the--notice,--the--board--may,-in-its discretion,-vacate-the--hearing--and--establish--the--rates, fares,-charges,-classifications,-and-rules-of-the intrastate air--carrier--without--hearing.--The-notice-required-by-this section-shall-state-that-the-board-may--vacate--the--hearing unless-a-written-protest-or-request-that-the-hearing-be-held is-received-by-the-board-as-required-by-this-section.~~"

Section 11. Section 67-3-429, MCA, is amended to read:

"67-3-429. Exceptions. (1) No intrastate air carrier may operate aircraft except in accordance with 67-3-421 67-3-422 through 67-3-429.

(2) Sections 67-3-421 67-3-422 through 67-3-429 do not apply to:

(a) common carriers of passengers or freight by aircraft which operate within this state under a certificate of public convenience and necessity issued by the federal government; or

(b) aircraft operators who carry passengers for hire, are commonly known as "taxi operators" or "charter operators", operate on an occasional or contract basis, and do not operate as common carriers between terminal points, including intermediate points, if any."

NEW SECTION. Section 4. Airport AND AIRCRAFT grants and loans. Any airport AND AIRCRAFT grant or loan that the department may be authorized to issue may be issued only after review and approval of the grant or loan request by the board.

NEW SECTION. Section 5. Codification instruction. Section 12 4 is intended to be codified as an integral part of Title 67, chapter 1, part 3, and the provisions of Title 67, chapter 1, apply to section 12 4.

NEW SECTION. Section 6. Effective date. This act is effective on passage and approval.

-End-

STATE PUBLISHING CO HELENA MONTANA

April 18, 1983

19

FREE CONFERENCE COMMITTEE
HOUSE BILL 776
(Report No. 1)

MR. SPEAKER:

We, your Free Conference Committee on House Bill 776, met and considered:

House Bill 776, third reading copy (Blue); and
Senate State Administration Committee Amendments of March 15, 1983; and
Senate Committee of the Whole Amendment of March 17, 1983

We respectfully recommend as follows:

That the House accede to all Senate amendments;
That House Bill 776 be further amended as specified in Clerical Instructions 1 and 2; and
That this Free Conference Committee report be adopted.

CLERICAL INSTRUCTIONS FOR REFERENCE COPY (SALMON)

1. Page 6, line 11.
Following: "consists of"
Strike: "seven"
Insert: "nine"

2. Page 7, line 3.
Following: line 2
Insert: "(g) one member of the Montana league of cities and towns;
(h) one person representing the general public; and"
Renumber: subsequent subsection

FOR THE HOUSE:

Shontz, Chairman

Schye

Ramirez

FOR THE SENATE:

Lee, Chairman

Etchart

Stimatz

Chairman

HOUSE BILL NO. 776

INTRODUCED BY SHONTZ, RAMIREZ,

H. HAMMOND, NORMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE BOARD OF AERONAUTICS UNDER EXISTING STATUTORY AUTHORITY AND RULES AND CHANGING THE QUALIFICATIONS FOR MEMBERSHIP ON THE BOARD; REQUIRING THE BOARD TO APPROVE AIRPORT AND ~~AIRCRAFT~~ GRANTS AND LOANS; ~~REVISING THE AIR CARRIER LAWS TO LIMIT APPLICATION TO INTRASTATE CARRIERS ONLY;~~ AMENDING SECTIONS 2-8-103, AND 2-15-1812, ~~67-3-421, 67-3-422, AND 67-3-424 THROUGH 67-3-429,~~ MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Reestablishment. The board of aeronautics, created pursuant to 2-15-1812, is reestablished with its existing statutory authority and rules for 6 years, pursuant to 2-8-122.

Section 2. Section 2-8-103, MCA, is amended to read:

"2-8-103. Agencies to terminate. (1) The following agencies shall terminate on July 1, 1979:

(a) board of abstracters, department of professional and occupational licensing, created by 2-15-1643;

(b) board of real estate, department of professional and occupational licensing, created by 2-15-1642;

(c) state board of warm air heating, ventilation, and air conditioning, department of professional and occupational licensing, created by 2-15-1656;

(d) board of institutions, department of institutions, created by 2-15-2303.

(2) The following agencies shall terminate on July 1, 1981:

(a) board of athletics, department of professional and occupational licensing, created by 2-15-1661;

(b) board of massage therapists, department of professional and occupational licensing, created by 2-15-1627;

(c) board of osteopathic physicians, department of professional and occupational licensing, created by 2-15-1607;

(d) board of podiatry examiners, department of professional and occupational licensing, created by 2-15-1608~~†~~.

(3) The following units of state government shall terminate on July 1, 1983:

~~(a) board of aeronautics, department of commerce, created by 2-15-1812;~~

~~(b)~~(a) state board of hail insurance, department of agriculture, created by 2-15-3003;

REFERENCE BILL: Includes Free Conference Committee Report Dated 4-18-83

HB 0776/04

~~(c)~~(b) board of horseracing, department of commerce, created by 2-15-1881;

~~(d)~~(c) board of livestock, department of livestock, created by 2-15-3102;

~~(e)~~(d) board of milk control, department of commerce, created by 2-15-1802;

~~(f)~~(e) board of oil and gas conservation, department of natural resources and conservation, created by 2-15-3303;

~~(g)~~(f) Montana outfitters' council, department of fish, wildlife, and parks, created by 2-15-3403;

~~(h)~~(g) public service commission, department of public service regulation, created by 69-1-102;

~~(i)~~(h) board of water and wastewater operators, department of health and environmental sciences, created by 2-15-2105;

~~(j)~~(i) board of water well contractors, department of commerce, created by 2-15-1862.

(4) The following agencies terminate on July 1, 1985:

(a) the board of public accountants, department of commerce, created by 2-15-1866;

(b) the board of architects, department of commerce, created by 2-15-1871;

(c) state banking board, department of commerce, created by 2-15-1803;

(d) the state electrical board, department of

commerce, created by 2-15-1874;

(e) the board of professional engineers and land surveyors, department of commerce, created by 2-15-1873;

(f) office of commissioner of insurance and the insurance department, state auditor's office, created by 2-15-1902 and 2-15-1903;

(g) office of the securities commissioner, state auditor's office, created by 2-15-1901;

(h) the board of landscape architects, department of commerce, created by 2-15-1872;

(i) the board of county printing, department of commerce, created by 2-15-1811;

(j) the board of plumbers, department of commerce, created by 2-15-1875;

(k) board of physical therapy examiners, department of commerce, created by 2-15-1858.

(5) The following agencies terminate on July 1, 1987:

(a) commission for human rights, department of labor and industry, created by 2-15-1706;

(b) Montana state board of medical examiners, department of commerce, created by 2-15-1841;

(c) board of dentistry, department of commerce, created by 2-15-1842;

(d) board of pharmacists, department of commerce, created by 2-15-1843;

(e) board of nursing, department of commerce, created by 2-15-1844;

(f) board of nursing home administrators, department of commerce, created by 2-15-1845;

(g) board of optometrists, department of commerce, created by 2-15-1846;

(h) board of chiropractors, department of commerce, created by 2-15-1847;

(i) board of radiologic technologists, department of commerce, created by 2-15-1848;

(j) board of speech pathologists and audiologists, department of commerce, created by 2-15-1849;

(k) board of hearing aid dispensers, department of commerce, created by 2-15-1850;

(l) board of psychologists, department of commerce, created by 2-15-1851;

(m) board of veterinarians, department of commerce, created by 2-15-1852;

(n) board of morticians, department of commerce, created by 2-15-1853;

(o) board of barbers, department of commerce, created by 2-15-1856;

(p) board of cosmetologists, department of commerce, created by 2-15-1857;

(q) board of sanitarians, department of commerce,

created by 2-15-1861;

(r) board of veterans' affairs, department of social and rehabilitation services, created by 2-15-2202.

(6) The following agency terminates on July 1, 1989: board of aeronautics, department of commerce, created by 2-15-1812."

Section 3. Section 2-15-1812, MCA, is amended to read:

"2-15-1812. Board of aeronautics -- qualification -- allocation -- quasi-judicial. (1) There is a board of aeronautics.

(2) The board consists of seven NINE members. The members are:

(a) one member of the Montana pilots' association;

(b) one member of the Montana chamber of commerce representing ~~WHOSE PRINCIPAL BUSINESS IS~~ aviation;

(c) ~~one member of the municipal league~~ Montana league of cities and towns representing MONTANA ~~airport operators~~ ONE REPRESENTATIVE OF THE MONTANA AIRPORT MANAGEMENT ASSOCIATION;

(d) one member of the Montana county commissioners association;

(e) one person actively engaged in aviation education in this state;

(f) one person representative of interstate commercial airline operators, who must at the time of appointment be an

employee or official of an interstate commercial airline operator and a resident of this state;

(5) ONE MEMBER OF THE MONTANA LEAGUE OF CITIES AND TOWNS;

(6) ONE PERSON REPRESENTING THE GENERAL PUBLIC; AND

~~(5)~~(7) one person who must at the time of appointment be an active fixed base operator in this state, or an official of a fixed base operator in this state, of flying services or flying schools.

(3) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.

(4) The board is designated as a quasi-judicial board for purposes of 2-15-124."

~~Section 4. Section 67-3-421, MCA, is amended to read:~~

~~"67-3-421. Regulatory powers of board of aeronautics. The board may:~~

~~(1) supervise and regulate every air carrier in those matters affecting ticketing, flight reservations, passenger baggage, advertising, passenger convenience and comfort, and transportation of freight;~~

~~(2) after notice to all interested parties and the public and after hearing, fix the rates, fares, charges, classifications, and rules of each carrier;~~

~~(3) regulate the accounts of each carrier and require the filing of annual and other reports and of other data by~~

~~the carriers;~~

~~(4) by general order or otherwise, adopt rules applicable to all intrastate air carriers. The board, in the exercise of the jurisdiction conferred upon it, may make orders and adopt rules affecting intrastate air carriers notwithstanding the provisions of any ordinance or permit of a town, city, city and county, or county, and in case of conflict the order or rule of the board prevails."~~

~~Section 5. Section 67-3-422, MCA, is amended to read:~~

~~"67-3-422. Issuance of certificates of public convenience and necessity. (1) No intrastate air carrier may engage in an operation in this state without first obtaining from the board a certificate of public convenience and necessity authorizing the operation.~~

~~(2) An applicant shall submit his written verified application to the board. The application shall be in a form, contain the information, and be accompanied by proof of service upon all intrastate air carriers with which the proposed service is likely to compete and upon other interested parties as the board requires. Each application shall be accompanied by a fee of $150.~~

~~(3) In awarding certificates of public convenience and necessity, the board shall consider the business experience of the particular air carrier in the field of air operations, the financial stability of the carrier, the~~

insurance coverage of the carrier, the type of aircraft which the carrier would employ, proposed routes and minimum schedules to be established, whether the carrier could economically give adequate service to the communities involved, the need for the service, and any other factors which may affect the public interest.

(4) After notice to the interested parties and the public and after hearing, the board may:

(a) issue the certificate requested;

(b) refuse to issue the certificate;

(c) issue the certificate for the partial exercise only of the privilege sought.

(5) The board may attach terms and conditions to the exercise of the rights granted by the certificate as, in its judgment, the public convenience and necessity require."

Section 6. Section 67-3-424, MCA, is amended to read:

"67-3-424. Suspension -- amendment -- revocation. (1) Upon a finding of an agency of the federal government that an intrastate air carrier is operating in violation of a federal safety law or regulation, the board may suspend and the department shall enforce the suspension of certificates of public convenience and necessity issued by the board.

(2) For any other good cause, the board may, upon notice to the holder of a certificate and opportunity to be heard, suspend, revoke, alter, or amend a certificate."

Section 7. Section 67-3-425, MCA, is amended to read:

"67-3-425. Establishment of rates -- discontinuance Discontinuance of services. (1) An air carrier may, upon prior written approval from the board, after notice to all interested parties and the public and after hearing, establish through rates and joint rates, charges, and classifications between all points served by it under certificates or operative rights issued to or possessed by it.

(2) No intrastate air carrier may discontinue operations to a point without authority of the board, unless the operations are unprofitable. Unprofitable operations may be discontinued upon 30 days' notice to the board and to other persons the board may require, unless within the 30-day period the board, after hearing, finds that the operation is not unprofitable and orders its continuance."

Section 8. Section 67-3-426, MCA, is amended to read:

"67-3-426. Board may require insurance. The board may, upon its motion or upon application of an interested party and after hearing, require an intrastate air carrier to procure and maintain insurance in amounts and upon terms as the board may determine. The board may suspend the certificate of an intrastate air carrier for failure to comply with the insurance regulations established under this section."

Section 9. Section 67-3-427, MCA, is amended to read:

"67-3-427. Enforcement -- appeals, and judicial determinations. (1) When a complaint has been filed with the board alleging that an aircraft is being operated without a certificate of public convenience and necessity or when the board believes that 67-3-421 67-3-422 through 67-3-429 are being violated, the board shall investigate the operations and may, after a hearing, make its order requiring the operator of the aircraft to stop an operation in violation of this section. The department shall enforce compliance with the order by means of powers vested in it by law.

(2) The district court has jurisdiction to enforce, by proper decree, injunction, or order, the rates, classifications, rules, and orders made by the board. The proceeding shall be by equitable action in the name of the state and shall be instituted by the attorney general or county attorney when advised by the department that an intrastate air carrier is violating or refusing to comply with a rule, order, rate, or classification made by the board and applicable to that intrastate air carrier. The proceedings shall have precedence over all other business in the district courts except criminal business.

(3) In an action the burden of proof rests upon the defendant, who must show by clear and satisfactory evidence

that the rule, order, rate, or classification involved is unreasonable and unjust. If the court decides that the rate, order, rate, or classification is not unreasonable or unjust and that in refusing compliance the intrastate air carrier is failing to fulfill a duty, debt, or obligation, the court shall decree a mandatory and permanent injunction compelling compliance with the rule, order, rate, or classification by the defendant and its officers, agents, servants, and employees and may grant other relief which may be considered just and proper. A violation of the decree makes the defendant and officer, agent, servant, or employee of the defendant who is in any manner instrumental in the violation guilty of contempt, punishable by a fine not exceeding $1,000 for each offense or by imprisonment of that person until he sufficiently purges himself. The decree remains in effect until the rule, order, rate, or classification is modified or vacated by the board.

(4) An intrastate air carrier may bring an action in the district court of the county where the principal office or place of business is situated or in a county where a classification, rate, tolls, charge, rule, or order of the board applies against the board as defendant to determine whether the classification, rate, tolls, charge, rule, or order made or established by the board is just and reasonable. In an action, hearing, or proceeding in any

~~county--the--classifications--rates--tolls-charges-rules-and order-made-and-established-by-the-board-shall-prima-facie-be considered-just,-reasonable,-and-proper.~~

~~(5)--Appeals--taken--to--the--supreme--court--from--the judgment--of--a--district--court--under--this--section--have precedence-over-all-other-business,-except-criminal-business and-original-proceedings-in-that-county-and-shall--be--heard and-determined-as-are-appeals-in-civil-actions.~~

~~(6)--All--costs--and--expenses-incurred-in-the-hearing, trial,-or-appeal-of-an-action--brought--under--this--section shall--be--determined--and--assessed--in--a-manner-the-court considers-just-and-equitable."~~

~~Section-10.--Section-67-3-428,-MCA,-is-amended-to-read:~~

~~"67-3-428.--Notice-of-regulation-hearings.---Notice--as required--by--67-3-421~~ 67-3-422 ~~through--67-3-427-shall-be given-by-publication-once-a-week-for-3-successive-weeks-in-a newspaper-of-general-circulation-in-the-county-in-which--the hearing--is-to-be-held-and-by-personal-service-by-mailing-to all-interested-parties.-However,-in-the-case-of-the-hearings required-by-67-3-421-and-67-3-425(1)~~ 67-3-425, ~~if-no-written protest-or-written-request--that--the--hearing--be--held--is received--by--the--board-within-5-days-after-the-date-of-the last-publication-of--the--notice,--the--board--may,--in--its discretion,--vacate--the--hearing--and--establish-the-rates, fares,-charges,-classifications,-and-rules-of-the~~ intrastate

~~air-carrier-without-hearing.-The--notice--required--by--this section--shall--state--that-the-board-may-vacate-the-hearing unless-a-written-protest-or-request-that-the-hearing-be-held is-received-by-the-board-as-required-by-this-section."~~

~~Section-11.--Section-67-3-429,-MCA,-is-amended-to-read:~~

~~"67-3-429.--Exceptions.--(1)-No~~ intrastate ~~air--carrier may--operate--aircraft--except--in--accordance-with-67-3-421~~ 67-3-422 ~~through-67-3-429.~~

~~(2)--Sections-67-3-421~~ 67-3-422 ~~through-67-3-429-do-not apply-to:~~

~~(a)--common--carriers--of--passengers--or--freight---by aircraft-which-operate-within-this-state-under-a-certificate of--public--convenience--and-necessity-issued-by-the-federal government;-or~~

~~(b)--aircraft-operators-who-carry-passengers-for--hire, are---commonly---known---as--"taxi--operators"--or--"charter operators",-operate-on-an-occasional-or-contract-basis,--and do--not--operate-as-common-carriers-between-terminal-points, including-intermediate-points,-if-any."~~

NEW SECTION. Section 4. Airport ~~AND--AIRCRAFT~~ grants and loans. Any airport ~~AND-AIRCRAFT~~ grant or loan that the department may be authorized to issue may be issued only after review and approval of the grant or loan request by the board.

NEW SECTION. Section 5. Codification instruction.

Section ~~12~~ 5 is intended to be codified as an integral part of Title 67, chapter 1, part 3, and the provisions of Title 67, chapter 1, apply to section ~~12~~ 5.

NEW SECTION. Section 6. Effective date. This act is effective on passage and approval.

-End-

MINUTES OF THE MEETING OF THE HOUSE HIGHWAYS AND TRANSPORTATION COMMITTEE, FEBRUARY 17, 1983

The meeting was called to order by Chairman Abrams on Thursday, February 17, 1983 at 12:30pm, in Room 129, State Capitol. All members of the Committee were present.

HEARINGS

HOUSE BILL 776. REP. JOHN SHONTZ, District 53, Richland County, testified as chief sponsor of the bill which would reestablish the Board of Aeronautics, subsequent to its sunset review. He said people in Eastern Montana feel the impacts of air service and in support of the Board said it took the lead in defining Montana's legislative interests, thus improving commercial aviation in the State; created industrial revenue bonds which were issued several sessions ago to help the aeronautics industry in the State; and is comprised of individuals in the aviation business. Rep. Shontz told the Committee aviation is a strong transportation link in Montana as well as serving in emergency situations. He said there is a need for a semi-judicial board of citizens to oversee aeronautic functions and make policy decisions with regard to the State and federal legislation.

PROPONENTS

MR. ROBERT HOLLISTER, President, Montana Pilots Association, told the Committee he agreed with Rep. Shontz' views and read from a prepared statement in support of the bill and industry-based bonds (exhibit).

MR. HUGH KELLEHER, Executive Secretary, Montana Airport Managers Association, stated his support of the bill in a prepared statement, and proposed several amendments (exhibit). He said page 7, lines 23-25 and page 8, line 1, would take local options from the people of Montana; page 10, lines 3-9, are made useless because of deregulation of the airlines; page 6, line 15, be amended to "cities and towns representing the Montana Airport Association".

MR. C.R. OLGRIN, Miles City, MT, told the Committee he was a fixed-base operator and a member of the Montana Aeronautics Board. He stated his support of the bill, adding the Board does not have the expertise to carry on deregulation at the State level.

MR. LEE FORD, Montana Business Aircraft Association and Buttrey Food Stores, stated his support of the bill with proposed amendments. He suggested the Chamber of

Commerce be replaced with business aircraft operators on page 6, line 13 of the bill, as all other areas of aeronautics are represented on the Board and business aircraft operators contribute $160,000 in aircraft taxes in Lewis and Clark County alone.

MR. TOM CRIPPEN, Montana Aviation Trades Association, told the Committee, there are regulations enough and there is no need for deregulation at the State level.

MR. K.G. MAMUZICH stated he opposed the bill as written but would support it with the proposed amendments.

MR. GEORGE TESHOVICK, Northwest Airlines Manager, Great Falls, stated his support of the bill.

MR. LEE BAKER, Lewistown, Past President, Montana Pilots Association, read from a prepared statement written to Herb Sammons, Chairman of the Aeronautics Board (exhibit). He said the Board did not authorize anyone to speak for themselves at the hearing, as it is self-serving and said the bill is parallel to Senate Bill 119, which downgrades the Board to an advisory capacity, adding he is concerned with issuance of grants and loans by bureaucrats without industry control. Mr. Baker said he does not favor the amendments as proposed and believes board members should be confirmed by the legislature in addition to their appointment by the Governor and told the Committee the task force has doubled service in Eastern Montana.

MR. RICK O'BRIEN, Conrad, MT, told the Committee he had served as a member of the Aeronautics Board for 12 years with 8 of those as chairman. He stated his support of the bill which would retain the Board in the same general manner as before, adding the Board has been in existence for 38 years. He said authority to deregulate has not been exercised and that it is important to maintain regulation of intra-state carriers. He read a statement for a proposed amendment to page 8, line 15, requiring registration for certification.

MR. JIM STEFFECK, told the Committee he represented himself, and said the flying public were interested in preservation of aeronautics in the State, as well as the Board and urged the Committee not to deny the travelling public this privilege.

OPPONENTS

There were no opponents of the bill.

IN CLOSING, Rep. Shontz thanked the proponents of the bill and reviewed proposed amendments. He said page 6, line 12, would make changes pertaining to board members; page 8, line 14, pertains to members of the league of cities and towns representing airport operators. Rep. Shontz told the Committee the air service business is costly and its strength must be maintained to keep it in operation , adding the commuter airline business is in a state of flux, because of deregulation, but has adjusted. He asked the Committee to support the bill and its concepts, stressing it is critical that the Board continue to exist.

QUESTIONS

REP. HARP asked more many intra-state commercial airlines there were in the State. Mr. O'Brien replied there were no. Rep. Harp asked if the Board had nothing to do with safety and if safety were only regulated by the FAA. Mr. O'Brien replied the principal consideration in authorizing a certificate is to assure financial stability to ensure proper maintenance, among other things. Rep. Harp noted no ther state except North Dakota has regulations on carriers in it audit report and asked why Montana needed it. Mr. O'Brien said it was because there was a need to someone to look at the business before it began operating.

REP. HARP asked Mr. Mamuzich about Minuteman Avaiation in Missoula, Mr. Mamuzich replied the business has been inactive for six months and will be reviewed in April, 1983, for feasibility of renewing its operations.

REP. KEYSER asked why one member from the public at large was not included, as in other boards. Mr. Olgrin replied the Chamber of Commerce seat on the Board is occupied by an attorney who is not involved in aviation.

REP. STOBIE asked if no consumer groups were served since there is no commercial intra-state carrier in Montana. Mr. Olgrin replied there is an on-demand air taxi with no schedule, adding commuter airlines have a published air schedule which they must fly.

REP. HARP asked Mr. Dick Varner, Legislative Auditor's Office to explain a letter from Capitol Aero. Mr. Varner replied Capitol Aero had a contract with several banks to carry cancelled checks between cities in Eastern Montana

and the Federal Reserve Bank in Helena, and at the same time, carried passengers. He said a dispute arose between the Board and Capitol Aero as to whether or not it was a scheduled flight, adding the point is now moot since Capitol Aero no longer has the contract.

MR. O'BRIEN read a letter from the Office of Congressional and Community and Consumer Affairs, to Mr. Sammons, stating it did not appear Capitol Aero was engaged in interstate air transportation and thus proposed no threat to Big Sky operations in the State.

MR. VARNER explained there are two classes of regulation by the Civil Aeronautics Board, one requiring a rigorous certification process with financial and operational review and the other a 298 exemption for air taxi and commuter airlines which is subject to insurance requirements only and no periodical financial audit (intra-state only). He said the bill, if enacted, would have regulatory authority only over Montana carriers and it is presently unclear as to whether all 298 exemptions fall within this category.

The hearing was closed on House Bill 776.

EXECUTIVE SESSION

HOUSE BILL 636. REP. HEMSTAD moved the bill Do Pass.

REP. KOEHNKE said the 100 mile limit needs to be amended to 250 miles and that he questions fines being classed as a misdemeanor as it could prohibit an individual's entry into the military.

REP. SOTBIE said he thought there would be many misdemeanors among those who have been flying only a short time, adding IFR differs from VFR and planes leave and enter the State so quickly, entering other jurisdictions.

REP. HEMSTAD if the bill would be more palatable if it were amended to 250 miles.

MR. KOEHNKE said if a plan were caught in a storm it might deviate from the flight plan and would still be difficult to locate.

REP. KEYSER asked what a Montana Public Airport was. Mr. Olgrin replied any airport owned by a minicipality or county was considered a public airport.

REP. HEMSTAD asked if the 250 mile flight plan would not protect a pilot with passengers. Mt. Olgrin replied it would, adding an air taxi can cross the U.S. without filing a flight plan.

REP. STOBIE asked for the difference between a controlled and an uncontrolled airport. Mr. Crippen replied a controlled airport has FAA personnel and, referring to the Harrison flight, said the pilot had not conversed with anyone with regard to his flight plan for a long priod of time, making it difficult to locate the plane.

REP. KOEHNKE replied the regulation will be difficult to enforce.

REP. SOLBERG asked who paid for searches. Mr. Crippen replied the State reimbursed searchers for gas if they were under supervision, adding other costs are donated.

REP. SHONTZ told the Committee Sidney is one of the busiest non-controlled airports in the Rocky Mountains and said when a flight plan is filed, the information goes to other airports and when a plane fails to arrive on schedule a search can be instituted earlier.

REP. HEMSTAD made a substitute motion to amend page 1, line 14, following "than", to strike "100" and insert "250".

REP. STOBIE made a substitute motion for all motions pending to amend the title on line 6, to state "originating at a Montana public controlled airport" and amend line 14 to "250", in addition to striking line 18 on page 1.

REP. SHONTZ said the matter would become a civil offense if misdemeanor were removed from the bill and the option to prove intent would also be removed.

REP. ZABROCKI made a substitute motion for all motions pending that the bill be tabled. The motion was approved with ten members voting aye and 7 voting no.

<u>HOUSE BILL 443.</u> REP. SHONTZ moved the bill Do Not Pass.

REP. KEYSER made a substitute motion that the bill Do Pass as the electorate should have a change to vote on the issue since they're affected by coal tax funds and highways.

REP. UNDERDAL seconded the motion made by Rep. Keyser.

REP. STOBIE said the bill was a good way to let Eastern states know coal tax dollars were to be used for the benefit of all Montanans and visitors.

MR. GREG PETESCH, Legislative Council Attorney, said the bill provides for a November, 1984 election, adding another bill will clarify that general election means a statewide election and if the bill passes, House Bill 443 would automatically be amended.

REP. LYBECK told the Committee coal tax funds were set aside for future use and the State should be ashamed to plan use of the funds now.

REP. O'CONNELL asked what the definition of the "future" was.

The motion made by Rep. Kesyer was given approval with ten members voting aye and seven voting no.

HOUSE BILL 776. REP. SHONTZ moved the bill Do Pass and then moved the title be amended on line 8 to read "aircraft and airport grants". The motion was seconded by Rep. O'Connell and given unanimous committee approval.

REP. SHONTZ moved "whose principal business is aviation" be inserted on page 6, lines 12-13 and 15. The motion was seconded by Rep. Stobie and unanimously approved by the Committee.

REP. SHONTZ moved "one member representing Montana airport operators" be inserted on page 6, line 14, and "cities and towns" be stricken. Rep. Shontz stressed that the motion was to be stated as a special intent in the minutes.

REP. KEYSER asked if the Montana Airport Managers Association differed from the Montana Airport Managers. Rep. Shontz replied they did.

The motion made by Rep. Shontz was seconded by Rep. Keyser and given unanimous committee approval.

REP. HARP moved Sections 4-11 be stricken and Section 67-3-423 be repealed. Rep. Shontz said he would oppose the motion as there is a big difference with reference to Civil Aeronautics Board safety factor problems and with reference

to intra-state basis, said the federal government does not regulate them. He said there are more deaths on these flights and on commercial flights, adding the Board is vital to the industry.

REP. BROWN, said as a member of the Butte-Silver Bow Airport Board, there is a need for State function.

REP. HARP said the Board of Aeronautics has no authority with regard to safety and the North Dakota regulations seem to remain eligible for state audits, adding Montana has not regulated safety in the past and he sees no need to do so now.

REP. BROWN said the size of the State constitutes carrier need.

MR. SCOTT SEACATT, Deputy Legislative Auditor, said the FAA has sole authority over safety and the Civil Aeronautics Board has authority over 298 exemptions, while the Montana Board has no authority over safety. He said the question is one of philosophy, as if an airline was neither CAB certified or exempt, would the State want the Montana Board to regulate it.

REP. KEYSER said MAMA was opposed to the regulations in the bill and would support the proposed amendments (exhibit).

REP. BROWN said in view of this information he would change his mind on the amendments.

MR. PETESCH advised Rep. Harp's motion would do nothing to other sections, as they would not be repealed, but only removed from the bill.

REP. HARP advised he wanted the Sections repealed and the Board not to have this authorization. Rep. Brown said he should only strike Sections 4-11.

REP. SHONTZ asked if a license would then become public property and if the Committee could repeal any statute now.

REP. BROWN made a substitute motion to strike Sections 4-11 of the bill. Rep. Harp agreed to remove the repealing of Section 67-3-423 from his motion. The motion made by Rep. Brown was seconded by Rep. Harp and approved by all members of the Committee except Rep. Shontz, who voted no.

REP. SHONTZ moved the bill Do Pass as Amended. The motion was seconded by Rep. Keyser and given unanimous committee approval.

HOUSE BILL 636. REP. HEMSTAD moved the Committee reconsider its action on the bill to work up some amendments. Rep. O'Connell seconded the motion.

REP. SHONTZ said he would support the motion, but not to amend the bill, adding Sidney has more business than Great Falls and is second only to Billings in the State.

REP. STOBIE said the Committee could not deal with the situation this date.

REP. BROWN said the bill should be given a Do Not Pass recommendation.

The motion made by Rep. Hemstad was approved with nine members voting aye and 8 voting no. The bill will be taken up in executive session on Saturday, February 19, 1983.

The meeting was adjourned at 2:30pm.

Hubert Abrams
REP. HUBERT ABRAMS, CHAIRMAN

Joann T. Gibson, Secretary

STANDING COMMITTEE REPORT

FEBRUARY 17 19 83

MR. SPEAKER:

We, your committee on HIGHWAYS AND TRANSPORTATION

having had under consideration HOUSE Bill No. 443

FIRST reading copy (WHITE color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND ARTICLE IX, SECTION 5, OF THE CONSTITUTION OF THE STATE OF MONTANA TO REDUCE THE AMOUNT OF COAL SEVERANCE TAX REVENUE TO BE ALLOCATED TO THE COAL SEVERANCE TAX TRUST FUND FROM 50 PERCENT TO 30 PERCENT AND REQUIRING THAT NOT LESS THAN 20 PERCENT OF THE COAL SEVERANCE TAX REVENUE, AND THE INTEREST THEREFROM, BE USED SOLELY FOR THE RECONSTRUCTION AND RECONSTRUCTION OF THE STATE'S HIGHWAYS; PROVIDING THAT THE ACT BE SUBMITTED TO THE ELECTORS OF THE STATE OF MONTANA; AND PROVIDING AN EFFECTIVE DATE AND TERMINATION DATE."

Respectfully report as follows: That HOUSE Bill No. 443

[illegible]

DO PASS

REP. HUBERT ABRAMS

Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

STANDING COMMITTEE REPORT

FEBRUARY 17 19 83

MR. SPEAKER:

We, your committee on HIGHWAYS AND TRANSPORTATION

having had under consideration HOUSE Bill No. 776

FIRST reading copy (WHITE)
color

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE BOARD OF AERONAUTICS UNDER EXISTING STATUTORY AUTHORITY AND RULES AND CHANGING THE QUALIFICATIONS FOR MEMBERSHIP ON THE BOARD; REQUIRING THE BOARD TO APPROVE AIRCRAFT GRANTS AND LOANS; REVISING THE AIR CARRIER LAWS TO LIMIT APPLICATION TO INTRASTATE CARRIERS ONLY; AMENDING SECTIONS 2-8-103, 2-15-1812, 67-3-421, 67-3-422, AND 67-3-424 THROUGH 67-3-429, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 776

Be amended as follows:

1. Title, line 7
Following: "APPROVE"
Insert: "AIRPORT AND"

2. Title, line 8
Following: "LOANS;"
Strike: remainder of line 8 through "ONLY;" on line 9

3. Title, line 9
Following: "2-8-103"
Strike: ","
Insert: "AND"

4. Title, line 10
Following: "2-15-1812,"
Strike: remainder of line 10 through "67-3-429," on line 11

~~DO PASS~~

REP. HUBERT ABRAMS

Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

5. Page 6, line 13
Strike: "representing"
Insert: "whose principal business is"

6. Page 6, line 14
Following: "member"
Strike: remainder of line 14 through "towns" on line 15

7. Page 6, line 15
Following: "representing"
Insert: "Montana"

8. Page 7, line 7 through page 14 line 11
Strike: Sections 4 through 11 in their entirety
Renumber: subsequent sections

9. Page 14, line 12
Following: "Airport"
Insert: "and aircraft"

10. Page 14, line 13
Following: "airport"
Insert: "and aircraft"

11. Page 14, line 17
Strike: 12
Insert: 4

12. Page 14, line 19
Strike: 12
Insert: 4

AND AS AMENDED

DO PASS

REP. HUBERT ABRAMS

Chairman.

STATE PUB. CO.
Helena, Mont.

ROLL CALL VOTE ------ 1983 HIGHWAYS AND TRANSPORTATION COMMITTEE

	Date: 1/27 No: HB 7	Date: 2/17 No: HB 636 Table	Date: 2/17 No: HB 443 Do Pass	Date: 2/17 No: HB 636 Reconsider	Date 2/19 No: HB 636 Amend.	Date No:	Date: No:
ABRAMS	Y	N	Y	Y	Y		
ZABROCKI	Y	Y	Y	Y	N		
BROWN	A	Y	Y	N	N		
COMPTON	Y	Y	Y	N	Y		
HAMMOND	Y	N	N	Y	N		
HARP	Y	N	N	Y	N		
HEMSTAD	Y	N	Y	Y	N		
HOWE	Y	Y	N	N	A		
KENNERLY	Y	Y	N	N	N		
KEYSER	Y	Y	Y	N	Y		
KOEHNKE	Y	Y	Y	N	Y		
LYBECK	Y	N	N	Y	N		
O'CONNELL	Y	N	Y	Y	N		
SHONTZ	A	N	N	Y	N		
SOLBERG	N	Y	Y	N	Y		
STOBIE	Y	Y	Y	N	Y		
UNDERDAL	Y	Y	Y	Y	Y		

CS-31

VISITOR'S REGISTER

HOUSE Highways COMMITTEE

BILL HB776 DATE 2-17-83

SPONSOR Shontz

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
C.R. Clapin	Miles City	Mont Aviation Trades	with amendments	
K G Hamilton	Missoula, MT.	Mt. Aviation Trades		✓
Lee Ford	Great Falls	M.B.A.A. - Buttrey Foods	X	X
Tom Crippen	Butte	M.B.A.A.		X
George Teskovick	Great Falls	Northwest Airlines	X	X
K.A. Curtis	Helena	Northwest Airlines	X	X
Hugh L Kelleher	Helena	M.A.M.A.	X	X
Lee Baker	Lewistown	MPA	X	
Robert Hollister	Forsyth	Mont. Pilots Assoc.	X	
Richard Baker	Conrad	Self	X	
James A. Goffus - HLN		Self	X	X
Dick Varner	Helena	Legislative Auditor		
H. L. Holman	Great Falls	Self		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

FORM CS-33
1-83

WITNESS STATEMENT

Name K. G. MAMUZICH Committee On HIGHWAYS + TRANSPORT

Address 1610 HAYES DR. MISSOULA, MT. Date 2/17/83

Representing MONT. AVIATION TRADES ASSN. Support ✓

Bill No. 776 Oppose ~~✓~~

Amend ✓

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. WITH AIRLINE DERREGULATION AND UP TO 45 STATES THAT DO NOT REGULATE AIR CARRIERS I OPPOSE THIS BILL AS WRITTEN

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34
1-83

WITNESS STATEMENT

Name [illegible] Committee On Highways & Trans

Address 99 Beeson Hills City Drive Date 2-17-83

Representing Montana Building Trades Support ✓

Bill No. 796 Oppose [redacted]

Amend ✓

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: With decline deregulation and 45 states that do not attempt regulation I oppose this portion of the Bill [redacted] in addition on

2. Board makeup I object to naming an organization, example: MPA [redacted] if this is left in the Bill then other organizations should be have this privilege.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34
1-83

WITNESS STATEMENT

Name LEE FORD Committee On

Address GREAT FALLS Date 2-17-83

Representing MBAA & BUTTREY FOODS Support AS AMENDED

Bill No. 776 Oppose

Amend X

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. BUSINESS AVIATION IS NOT REPRESENTED AS THE BILL IS WRITTEN

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34
1-83

WITNESS STATEMENT

Name GEORGE Teshovick Committee On _____

Address Great Falls. Date 2-17-83

Representing Northwest Airlines Support X

Bill No. 776 Oppose ~~X~~

Amend X

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Bill is needed but it must be amended.
2. The Board makeup is not up to date & more represented by present day business concerns would be more beneficial to Montana aviation.
3.
4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34
1-83

WITNESS STATEMENT

Name Tom Crippen Committee On _____

Address 240 Eagle Dr Butte Date 17 Feb 1983

Representing Montana Business Aviation Support ✓

Bill No. 776 Oppose _____

Amend ✓

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Would like Bill Amended to Remove Authority the Pro Regulation of Intra State Authority Is Away From Federal Level Is move on the Federal Level
2. Have A Representation From Montana Business Aviation
3. Have A Representation From Airport Manag
4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34
1-83

WITNESS STATEMENT

Name Hugh R Kelleher

Address 1620 Jerome Helena

Representing M.A.M.A

Bill No. 776

Committee On Highways & Transp

Date 2/17/83

Support

Oppose ✓

Amend ✓

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

FORM CS-34
1-83

2-17-83

HOUSE HIGHWAYS AND TRANSPORTATION COMMITTEE

Bill Summary

HB 776 reestablishes the Board of Aeronautics, which was sunsetted, under existing statutory authority. The bill revises the membership of the board and limits its authority over air carriers to intrastate carriers only. The bill also gives the board the authority to approve any airport grants and loans that the Department of Commerce is authorized to issue.

STATE OF MONTANA
Aeronautics Board

TED SCHWINDEN
GOVERNOR

Richard S. O'Brien, Vice Chairman, Conrad
Clarence Ugrin, Miles City
Robert N. Miller, Dillon

Maurice Sandmeyer, Secretary, Sidney
Bruce Vanica, Billings
James A. McLean, Bozeman

HERB SAMMONS,
CHAIRMAN
CUT BANK

2-17-83
HB 776

February 15, 1983

Rep. Hubert Abrams, Chairman
Highways & Transportation Committee
Montana House of Representatives
Helena, MT 59620

Dear Rep. Abrams:

I regret not being able to appear before your committee to personally submit testimony on HB 776.

The Montana Aeronautics Board is in support of reestablishing the Board in the manner set forth in HB 776.

Your acceptance of this letter in lieu of my personal testimony will be greatly appreciated.

Sincerely,

Herb Sammons

Herb Sammons, Chairman
Aeronautics Board

mk

P.O. BOX 5178
Helena, Montana 59604-5178

Montana Aviation Trades Association

2-17-83
HB 776

RESOLUTION

WHEREAS, The Montana Aviation Trades Association is made up of a group of flight operators engaged in General Aviation and operating General Aviation facilities at one or more of the 116 airports in the State of Montana, and

WHEREAS, The purpose of the Montana Aviation Trades Association is to foster, promote and protect the Commercial Aviation Industry in the State of Montana, and

WHEREAS, at the annual meeting of the members of Montana Aviation Trades Association it was voted on and unanimously passed,

THEREFORE, Be it resolved that at this time, The Montana Aviation Trades Association go on record as being in favor of re-instating the Board of Aeronautics, providing the portion of the bill relating to regulation of Intra-State be deleted from the bill.

Robert A Palmersheim RAP

ROBERT A. PALMERSHEIM
PRESIDENT OF MONTANA AVIATION
TRADES ASSOCIATION

The purpose of Montana Aviation Trades Association is to foster promote and protect

MONTANA
AIRPORT
MANAGEMENT
ASSOCIATION

Reply To:

February 17, 1983
HB 776

GOOD AFTERNOON MR. CHAIRMAN AND MEMBERS OF THE HIGHWAYS AND TRANSPORTATION COMMITTEE:

I AM HUGH R. KELLEHER, EXECUTIVE SECRETARY OF THE MONTANA AIRPORT MANAGEMENT ASSOCIATION (MAMA). MAMA IS ~~OPPOSING~~ Support do amend HOUSE BILL 776 FOR TWO REASONS. FIRST, MAMA STRONGLY FEELS THAT IT SHOULD HAVE A DESIGNATED REPRESENTATIVE ON THE MONTANA AERONAUTICS COMMISSION. THIS BILL SPECIFICALLY NAMES OTHER ORGANIZATIONS, SUCH AS THE MONTANA PILOTS' ASSOCIATION AND THE FIXED BASE OPERATORS, AND WE FEEL THAT THE MONTANA AIRPORT MANAGEMENT ASSOCIATION SHOULD HAVE THIS SAME RECOGNITION FOR WITHOUT AIRPORTS THERE WOULD BE NO PILOTS' ASSOCIATION OR FIXED BASE OPERATORS.

MONTANA HAS ONE OF THE FINEST AIRPORT SYSTEMS AS ANY OTHER STATE IN THE NATION, AND IT IS ONLY THROUGH PROFESSIONAL MANAGEMENT THAT THIS HAS BEEN BROUGHT ABOUT.

MAMA ALSO OPPOSES OTHER FEATURES OF THIS LEGISLATION THAT GIVES THE

COMMISSION REGULATORY POWERS OVER INTRA-STATE CARRIERS. WE AGREE WITH THE ~~AIR TRANSPORTATION ASSOCIATION~~ F.B.O THAT THIS IS NOT NEEDED, ESPECIALLY UNDER THE ENVIRONMENT OF DEREGULATION.

WE CALL YOUR ATTENTION PARTICULARLY TO PAGE 7, LINES 23 THROUGH 25 AND PAGE 8, LINE 1. HERE AGAIN WE FEEL THAT LOCAL OPTION IS BEING TAKEN AWAY FROM THE PEOPLE OF MONTANA.

WE ALSO CALL YOUR ATTENTION TO PAGE 10, LINES 3 THROUGH 9. WE FEEL THAT DEREGULATION OF THE AIRLINES MAKES LEGISLATION OF THIS TYPE COMPLETELY USELESS. THIS LEGISLATION DOES NOT ADDRESS SAFETY AND OTHER OPERATIONAL PROCEDURES THAT SHOULD BE ADDRESSED IF INTRA-STATE REGULATION WAS IMPOSED.

page 6 - line 15 to read —
of city and towns representing
montana airport management and

CIVIL AERONAUTICS BOARD
WASHINGTON, D.C. 20428

IN REPLY REFER TO: B-93

APR 2 9 1982

RECEIVED
MAY -3 1982
MONTANA AERONAUTICS DIVISION
HELENA, MONTANA

Mr. Herb Sammons
Chairman
State of Montana
Aeronautics Board
P. O. Box 5178
Helena, Montana 59604-5178

2-17-83
HB776

Dear Mr. Sammons:

John Smith of our California office has advised me of the Montana Aeronautics Board's concern that Capitol Aero, Inc. may be operating scheduled commuter airline service without C.A.B. authority and that their service may be harmful to Big Sky Airlines' operation in Montana.

As you are aware, Capitol Aero is registered as an "air taxi operator" pursuant to Part 298 of the Board's regulations. However, if Capitol Aero intended to operate as a commuter air carrier in interstate air transportation it would first require a finding of fitness by the Board. Based on the information you submitted and our contact with the carrier, it does not appear that Capitol Aero is engaging in interstate air transportation. Therefore, any requirement to regulate their current commuter status would fall under your state's jurisdiction.

Furthermore, the Board is interested in promoting competition. If a carrier elects to operate at the same points as a subsidized carrier, this agency would not take steps to inhibit this competition.

Thank you for your interest in this matter.

Sincerely,

Hoyte B. Decker, Jr.
Assistant Director For
Operations
Office of Congressional,
Community and Consumer
Affairs

2-17-83
HB 776

MONTANA PILOTS' ASSOCIATION
INCORPORATED

February 16, 1983

Committee Chairman
Committee Members
House Highway and Transportation Committee

The Montana Pilots' Association favors the expedient passage of House Bill #776. The Montana Aeronautics Board should have the authority to approve or disapprove loans and grants by the Aeronautics Division. With the low population density and the great distances in our State, we feel there is great merit in retaining the Board's authority to issue industrial revenue bonds to Montana based commuter airlines.

With the Federal Government's program of returning State's rights and responsibilities to the individual States, we forsee 1983 as the time to become prepared to handle these obligations. Whereas, the Montana Aeronautics Board has done a commendable job in the past, the Montana Pilots' Association has every reason to believe that this Board will continue to serve Montana's aviation community commendably in the future without costing the general taxpayer of Montana one dime.

Sincerely,

Robert Hollister

Robert Hollister
President

EXCUSE

DATE 2-17-83

REPRESENTATIVE John Shoaf

IS EXCUSED FROM COMMITTEE HEARING.

REP. HUGH ABRAMS, CHAIRMAN
HIGHWAYS AND TRANSPORTATION COMMITTEE

PROXY VOTE

Date 2-17-83

REPRESENTATIVE John Shoaf

BILL NO. _____

INSTRUCTIONS _____

443 - NO

636 - [redacted] YES

- NO to ANY amendments

SIGNATURE

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

March 8, 1983

The forty-second meeting of the Senate State Administration Committee was called to order by Senator Pete Story, Chairman, on the 8th day of March 1983 in room 331 at 10:00 a.m. in the State Capitol Building in Helena, Montana.

ROLL CALL: Roll was taken and all were present except Senator Towe who was excused and Senator Gary Lee who was absent.

The meeting was called to hear House Bills 763, 832, 691, 776, 329, and 832.

CONSIDERATION OF HOUSE BILL 763:
"AN ACT TO EXCEPT LIVE-IN HOUSEPARENTS UNDER CONTRACT WITH THE STATE SCHOOL FOR THE DEAF AND BLIND FROM THE STATE EMPLOYEE CLASSIFICATION SYSTEM;..."

REPRESENTIVE JAY FABREGA, District 63, Great Falls, Montana, presented this bill. He stated this bill is to exclude live-in house parents at the Deaf and Blind School of Great Falls from the specifications of the pay plan. They are in a unique position, involving six people. Note page 2, academic and professional personnel and we add live-in house-parents.

JIM MC GARBEY, representing the Montana Federation of Teachers expressed their support for this bill.

BILL DAVIS, Dean of Students for the deaf and blind. He stated the cottages were designed around the house parents, thus the passage of the bill will let them fall in line with the design contract... Presented EXHIBIT 1.

RICHARD GEBO, Assistant Dean of Students for the deaf and blind stated this bill would allow the live-in house-parent with more identity with the professional staff. A better sense of belonging will result in a better productivity.

OPPONENTS: None.
QUESTIONS OF THE COMMITTEE:

It was confirmed that there is no money involved.

SENATOR STORY said some people do not like anyone on the pay plan but if it is to work they need to keep as many on as possible and resist taking people off of it. What would make it impossible to set one grade that would be suitable.

Representive Fabrega stated it is a unique situation and they are

in operation only 9 months out of a year and house parents work 24 hours a day.

BILL DAVIS said nine months out of a year limits how much you can spread out a persons salary. This will explain how long you can spread out a persons salary. Right now they are a grade 9. They are satisfied with the pay but H.B.763 will give the option of spreading the pay through the summer months like they do for the teachers.

Great Falls teachers have their own pay scale.

ACTION ON HOUSE BILL 763
SENATOR MANNING MOVED HOUSE BILL 763 BE CONCURRED IN.
MOTION PASSED.
Senator Manning will carry the bill.

CONSIDERATION OF HOUSE BILL 832:
"AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VIII, SECTION 13, OF THE MONTANA CONSTITUTION TO REMOVE THE RESTRICTION ON INVESTMENT OF PUBLIC FUNDS IN CORPORATE CAPITAL STOCK AND THE REQUIREMENT THAT INVESTMENTS OF CERTAIN EDUCATION FUNDS BEAR A FIXED RATE OF INTEREST."

REPRESENTIVE JAY FABREGA, District 44, Great Falls, Montana, stated that H.B. 832 is a spinoff after the meeting of Initiative 95. The Board of Investments became involved in this. He said that he believes if you take the lines of the Board of Investment that 10% of the amount invested...the corporate stock would be a desireable thing to do. We allow investments of pension funds. Right now the Board of Investment manages 1.4 billion, 800 million funds like the coal tax, and other funds that are not private ownership, that he would call pension funds. One of things that happened...right now the Board of Investments can buy corporate funds, fixed rate. There is no road potential in them but if there is any doubt to the worthiness of corporations you are looking at the super class investment. It would make sense to have a portion in stocks as well. The language may have been the reason for the way people looked at it. He called attention to line 22. He stated that this bill received 81 votes in the House.

PROPONENTS:

Jim Howeth of the Board of Investments stated he supports H.B.832 and would answer any questions.

No other proponents or opponents or questions of the committee.

Closed on H.B.832.

CONSIDERATION OF HOUSE BILL 691:
"AN ACT TO CREATE A BOARD OF ATHLETICS RESPONSIBLE FOR PROTECTING THE PUBLIC FROM FRAUD IN BOXING AND WRESTLING EVENTS AND FOR ISSUING LICENSES TO PROMOTERS, REFEREES, AND OTHERS INVOLVED WITH THOSE EVENTS."

REPRESENTATIVE JOE BRAND, District 28, Deer Lodge, Montana intorduced H.B.691. He state that the city of Missoula gave them the testimony shown as EXHIBIT 2, and said he would use it as his testimony. He also said that this bill askes that the boxing board be reinstituted and a statement of intent be given to the committee. The statement of intent is as follows: "The statement of intent is required for this bill because it grants rulemaking authority to the Board of Athletics. Qualifications for licensure to conduct boxing or wrestling events or to act as a referee, manager, or judge should be based primarily on particular knowledge required for the particular license and the integrity of the applicant, as indicated by past activities. To this end, the rules should address means of determining knowledge and integrity, such as affidavits or references evidencing experience and good reputation in the particular field.

PROPONENTS:

MARY LOU GARRETT, Department of Commerce, Professional and Occupational Licensing Bureau stated she was involved in the sunset review with the Board of Athletics. The board is only as good as the members on it. They were not working effectively then. So for the past few years she has spent much of her time providing information to primarily Billings, Great Falls, Butte and Missoula who have enacted and taken the rules of the former Board of Athletics and incorporated them into their local ordinances. She talked to Marvin Hammell, former boxer, and he said he would not box in Montana until there was a state wide commission because they do not get ratings when the local governments do not belong to the WBAWBC. Also the board prevented mud wrestling in the local bars.

OPPONENTS: None.

QUESTIONS OF THE COMMITTEE:

SENATOR MARBUT called attention to the repealer, page 5 and brought up double licensing and excluding amateur fights. He said they then would be excluding amateur fights from having the medical people in the safety requirement because the only regulations you ask are for governing semi-pro and pro.

REPRESENTATIVE BRAND said that the amateur people were the ones that asked the regulations be taken off so they could put on amateur bouts.

MARY LOU GARRETT stated she attended a mud wrestling contest to observe and that they were wrestling for prizes. It was not mud but a synthetic poly substance, therefore they have indicated that in the bill.

SENATOR STORY asked how they have changed the law?

MS. GARRET stated they provide for female boxers and cruiser weight.

Hearing closed on H.B.691.

CONSIDERATION OF HOUSE BILL 776:
"AN ACT TO REESTABLISHING THE BOARD OF AERONAUTICS UNDER EXISTING STATUTORY AUTHORITY AND RULES AND CHANGING THE QUALIFICATIONS FOR MEMBERSHIP ON THE BOARD; REQUIRING THE BOARD TO APPROVE AIRCRAFT GRANTS AND LOANS; REVISING THE AIR CARRIER LAWS TO LIMIT APPLICATION TO INTRASTATE CARRIERS ONLY; AMENDING...."

REPRESENTATIVE JOHN SHONTZ, district 53, Sidney, Montana, stated this board has done a tremendous amount of work in policy, keeping Montana commercial air system in tact and we now have better and more air service. There are different opinions on the make-up of the board and there will be some amendments.

PROPONENTS:

RICHARD O'BRIEN, Conrad, Montana, a former member of the Board of Aeronautics presented written testimony, EXHIBIT 3. He asked for a few changes...the bill asks for the same make-up as usual on the board with two exceptions...there is usually a representative of the Montana Chamber of Commerce and the words were added, representing aviation. The next change on page 6, says that a representative from the Montana League of Cities and Towns have to represent airport operators. He asked the committee to amend back into the bill the part striken by the House regarding the boards authority to regulate intra-state carriers. This would mean retaining the board in its quasi-judicial function.

FORREST BOLES, Montana Chamber of Commerce, stated they support the legislation as well and that he has some amendments. Mr Boles submitted testimony and his written testimony as EXHIBIT 4.

HUGH KELLEHER, executive secretary of the Montana Airport Association and Manager of the Helena Regional Airport presented written testimony, EXHIBIT 5 and 5(a).

LEE BAKER, past president of Montana Pilots Association, stated he is representing Robert Hollister, President of the Montana Pilots Association, who could not get off the ground in Forsyth because of the weather. See EXHIBIT 6.

He stated they feel the way the board is made up now provides a very good cross section of all facets of Montana and the Governor has a broad group to select from.

JIM STEFFECK, stated he has been a member of the commission and chairman but today is representing himself. He said that the proposed amendments, as amended by the House, restricts the membership too much so you do not have a wide enough area to get an attorney from. He said that when he first went on the board they had a staff attorney, Henry Loble. Mr. Steffeck said that he was good but expensive. Any time you can get an attorney for $25 a day you should take it. He stated the other observation he made was regarding the regulations of third level airlines in Montana. He said a number of years ago when the board was regulating, Sun Valley Airlines applied for a certification and was given it and were flying...as time went by the board found out they were having problems in maintenance, etc...so the board sent a member to check into this and the report was very negative. So the board withdrew the certificate and they quit flying in Montana but continued in Idaho because they do not have a board and it went down with the president of the airlines aboard. It did not happen in Montana because we stopped them. He stated. "now I am going to tell you what is going to happen"...sometime in the next few years we are going to have a third level airplane go down and there is going to be a whole plane load of dead people and someone sitting here will know one of them so he asked the committee to not deny the people of Montana the slightest shread of safety.

MIKE FERGUSON of the Aeronautics Division stated Chapter 99 sends a statement to be entered into the record, EXHIBIT 7, as well as a statement from the Montana League of City and Towns EXHIBIT 8. He stated he would like to go on record as supporting the bill with the amendments and the one they would like to address is where it says "aircraft" in the bill where it should say "airport". They have never made aircraft loans. His amendments are shown as EXHIBIT 9. He stated that this is a guasi-judicial board and one of the members should be an attorney.

OPPONENTS: None.

SENATOR MARBUT asked what language do they want back in the bill concerning third level carriers.

MR. O'BRIEN read a letter sent to the chairman of the Montana Board of Aeronautices, EXHIBIT 10. He said that the Board can oversee the FFA. He stated the case where Combs Airline came down in Glendive and the FFA should have gotten that one, but the FFA does not do a good enough job. He said there is an avenue that makes an unsafe flyer stop flying.

QUESTIONS OF THE COMMITTEE:

SENATOR MARBUT remarked that he is not sure putting money into this will do it.

Mr. O'BRIEN said if you look into their shops it is usually a signal.

SENATOR STORY stated that they do not certify the machine. If there is not enough money, they will take shortcuts.

REPRESENTATIVE SHONTZ said that the language was striken because several fixed operators wanted it out. He said that he believed that it would concur in without amendments. He said that the League of Cities and Towns had a member on this board for several years. He also said that Sidney is the second busiest airport and the only other one that carries more traffic is Billings. He said that the member that represents them is from the Montana League of Cities and Towns and is the chairman of the airport authority center, they work hand in glove and no one gets excluded.

SENATOR MARBUT questioned how many major airports there are and how many are operated by local companies and how many by independent.

MR. KELLEHER said there are three types of airports. There are 25 major airports, 116 public use airports and 150 privately owned airports as well as 15 air carrier airports in the state of Montana.

SENATOR STIMATZ asked what size of airplanes come into Sidney?

REPRESENTATIVE SHONTZ said anything from a 580 and the airport can take a 787. They have 6 flights a day, by Big Sky. They have two runways.

SENATOR STIMATZ asked for Mr. Kelleher's comments.

MR. KELLEHER stated that it is getting very complex and he feels that it is time airports be represented as far as management is concerned and feels that they have something to add. He also stated that they have 65,000 planes to handle a year.

SENATOR STIMATZ asked to have the fact that Sidney was the 2nd busiest airport and asked how many planes do they handle a year?

REPRESENTATIVE SHONTZ said that Sidney handles 36,000 a year.

The meeting closed on H.B.776.

SENATOR STORY SUBCOMMITTEED Senator Hammond and the Staff Attorney, Dave Cogley to this bill.

CONSIDERATION OF HOUSE BILL 329:
"AN ACT ESTABLISHING A PENALTY FOR KNOWINGLY MISREPRESENTING THE VOTING RECORD OR PUBLIC POSITION OF A CANDIDATE; PROVIDING FOR DISPOSITION OF FINES;

REPRESENTIVE JOHN SHONTZ, Sidney, Montana, district 53, said this bill states that in a political campaign if a candidate "knowingly misrepresents the voting records or positions on a public issue of a candidate and advertizes in literature with the intention of influencing the result of the election, it is a misdemeanor and the penalty is the guilty person would have to pay into the other persons campaign fund the maximum amount liable by law. The reason for this is that something that will damage a politicians ego will also keep him from doing something like this." He stated a court case in Butte. This makes the law state-wide

PROPONENTS None.
OPPONENTS:

JIM REYNOLDS, Attorney in Helena and a member of the board of directors of the Montana Chapter of American Civil Liberties, said that they are opposed to the principal and the the bill as drafted and believes that this bill is not allowing freedom of speech. According to the statutes it does not say they have committed a crime, it just says a person is punishable. He said it would have a chilling effect on the first amendment. This bill would possibly keep someone from bringing something out that the public should know in fear of being punished. He said they should follow the language printed in the first section, "to make or publish any false statement or charge concerning the voting records", a definable term.

QUESTIONS OF THE COMMITTEE:

SENATOR MARBUT asked if he did not have confidence in a jury.

MR. REYNOLDS said that he is not sure it would make it to a jury.

SENATOR MARBUT asked why are we not following the Butte case?

REPRESENTATIVE SHONTZ asked why there is not a body of law?

SENATOR MARBUT asked why they are not making a body of law?
SENATOR STIMATZ said that Senator Towe was the attorney for that case and he has a file that is full of the county attorney's work.

SENATOR MARBUT asked what you do in case of a third party.

PREPRESENTATIVE SHONTZ CLOSED by saying that he has no ax to grind but he does think this bill is important and would appreciate the committees support.

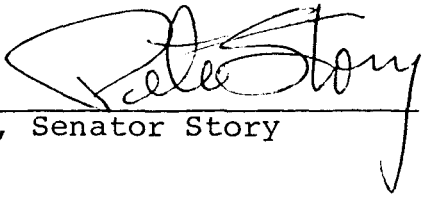
The hearing closed on H.B.329.

EXECUTIVE SESSION:

ACTION ON HOUSE BILL 832:
SENATOR MARBUT MOVED H.B.832 BE CONCURRED IN.
MOTION PASSED. Senator Marbut will carry this bill.

HOUSE BILL 199 was discussed and Senator Story asked Senator Marbut to check with Tom Harrison, attorney and a former National Guardsman and that they would come back to this bill.

The meeting closed at 12:10 P.M.



CHAIRMAN, Senator Story

ROLL CALL

STATE ADMINISTRATION COMMITTEE

48th LEGISLATIVE SESSION -- 1983 Date 3/8/83

NAME	PRESENT	ABSENT	EXCUSED	SENATE SEAT #
SENATOR PETE STORY, Chairman	X			45
SENATOR H. W. HAMMOND, Vice Ch	X			34
SENATOR REED MARBUT	X			44
SENATOR LARRY TVEIT	X			33
SENATOR R. MANNING	X			48
SENATOR LAWRENCE STIMATZ	X			7
SENATOR THOMAS TOWE			X	26
SENATOR GARY LEE		X		11

Each day attach to minutes.

DATE March 8, 1983

COMMITTEE ON

776

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Hayth R Killeher	mont airport mgr ass.	776	✓	
Ed Buck Boles	Mont Chamber	776	✓ w/ amendment	
Lee Boby	MPA	776	✓	
Richard O'Brien	SELF	776	✓	
Mary Lou Smith	Dept of Commerce	691	✓	
Jim Harney	Montana Teamsters	763	✓	
Bill Davis	School for Deaf & Blind	763	✓	
Richard L. Peter	School for the Deaf & Blind	763	✓	
Tim Howeth	BOARD OF INVESTMENTS	832	✓	
Jim Stiffler	SELF	776	✓	

(Please leave prepared statement with Secretary)

SCHOOL FOR THE DEAF AND THE BLIND

EXHIBIT 1
State Admin. 3/8/83
HB 763

STATE OF MONTANA

February 17, 1983

Four years ago the Montana Legislature appropriated funds for the construction of one forty-bed cottage to be located on the campus of the Montana School for the Deaf and the Blind. The Board of Examiners then selected the architectural firm of Davidson-Kuhr to design and manage the construction of this cottage.

Under the guidance of Davidson-Kuhr an in-depth and thorough design process was conducted which involved representation of our school administration, academic staff, residence staff and parents of our students. During the course of this design process it was determined that in meeting our objective to maintain a home-like environment for our students, they would benefit from the care of "live-in" houseparents. As a result this capability has been designed into the cottages.

The last legislature appropriated additional monies to construct a second cottage, a food service building and a Physical Recreation Complex. The second cottage has the same basic design as the first cottage with some minor modifications to accomodate the unique needs of the students who will be in residence there. However, the concept of "live-in" houseparents has been carried through here as well.

By exempting those staff who are classified as Cottage Life Attendant III, we feel that it will be possible to solidify the programatic concept of "live-in houseparents", thus meeting our goal of a home-like environment for the deaf and blind children in residence at our school.

These "live-in" houseparents would be contracted by the Board of Public Education at their current classification level with future pay raises as provided by the Legislature. Their apartment would be part of the contractual arrangement.

I sincerely ask that you give House Bill 763 every favorable consideration for passage. To do so will benefit the children who reside at the Montana School for the Deaf and the Blind.

Submitted by Bill Davis

THE GARDEN CITY
HUB OF FIVE VALLEYS

Missoula, Montana 59802

March 7, 1983

EXHIBIT 2
State Admin
3/8/83

OFFICE OF CITY ATTORNEY
201 West Spruce Street
Phone 721-4700

83-170

Senate State Administration
Committee Members
Montana State Capitol
Capitol Station
Helena, Montana 59620

Re: HB 691 to Create a State Board
Board of Athletics

Dear Senate State Administration Committee Members:

I would like to urge your support for the enactment of House Bill 691 entitled "An Act to Create a Board of Athletics Responsible for Protecting the Public from Fraud in Boxing and Wrestling Events and Issuing Licenses to Promoters, Referees and Others Involved with Those Events."

The City of Missoula supports and encourages a return to State regulation of professional boxing and wrestling rather than local government regulation of professional boxing and wrestling. The 1981 Montana State legislature sunsetted the State regulatory body that regulated professional boxing and wrestling and made local governing bodies responsible for regulating these professional sports activities pursuant to Section 7-21-4212, M.C.A.

Frankly, local governmental entities do not in all instances have the necessary expertise or background to conveniently or easily regulate professional boxing and wrestling. Further, experience indicates that local government boxing regulations differ slightly from local government jurisdiction to local government jurisdiction, which has been the source of some complaints from promoters. Also, pursuant to the existing state of the law, promoters must pay individual license fees for themselves, referees, participants, etc. in each local government jurisdiction rather than simply paying one annual state license fee. This situation has been the source of additional complaints from the promoters.

Most importantly, from a fiscal perspective for the City of Missoula, the City of Missoula's experience has been that City staff members have spent far more staff time drafting and administering its professional boxing and wrestling regulations than the City has generated or recovered pursuant to fees,

EXHIBIT 2

pg 2

licenses and taxes authorized to be collected by local governments pursuant to Section 7-21-4212, M.C.A. The City of Missoula's experience also has been that those attempting to conduct professional wrestling events in the City of Missoula have clearly lost money in Missoula. Attendance at the professional wrestling events has been quite low; in part this is probably attributable to a lack of sufficient advertisement of the events by the promoters.

I would like to make the following suggestions with respect to House Bill 691:

1. Section 7-21-4212, M.C.A., pertaining to local government regulation of professional boxing and wrestling should be repealed;

2. House Bill 691 should have an immediate effective date, or at least a July 1, 1983, effective date.

Some local governments have not enacted local regulations as is required by Section 7-21-4212, M.C.A., yet it is my understanding that at least one professional wrestling event has been held in a jurisdiction that did not enact any regulations.

I believe that the wise thing to do with respect to the regulation of professional boxing and wrestling is to return the control and supervision of professional wrestling and boxing to the State of Montana. I urge your support for the enactment of House Bill 691.

Yours truly,

Jim Nugent
City Attorney

JN/jd

EXHIBIT 3
State Admin
3/8/83

Senator Story and Members of the Committee:

My name is Richard O'Brien. I am from Conrad, and I am appearing as an individual and as a former member of the Board of Aeronautics, having served on that Board for 12 years, 8 of which were as its Chairman.

I am appearing as a proponent of this bill (HB 776) but will ask you to make a few changes in it.

First, the bill retains the Aeronautics Board with the same general makeup as previously with two exceptions. These are in the representative from the Montana Chamber of Commerce (Page 6, Lines 14 and 15) where the words representing aviation have been added. The next line states that the representative of the Montana League of Cities and Towns has to represent airport operators. This amendment made by the House Committee is overly restrictive inasmuch as the only facets which can qualify are the airlines and the fixed base operators, both of which are already represented by statute. I would like to ask you to amend these additions out of the bill.

The reason for asking this is that the Board, and previously the Commission, has functioned effectively in Montana for over 38 years with the same general makeup. I feel that the representation on the Board gives each facet of the aviation community a fair and equal say in the affairs of the Board.

Second, I would like to see this committee amend back into the bill the sections stricken out by the House Committee which reference the Board's authority to regulate INTRASTATE carriers. This would mean retaining the Board with its quasi-judicial functions and would provide for regulation of air carriers operating wholly within the state of Montana by the Board. The CAB does not regulate these types of operators and I feel this authority should be retained somewhere within State government.

In the language of the House Bill, the factors to be considered by the Board are: the business experience of the particular air carrier in the field of air operations, the financial stability of the carrier, the insurance coverage of the carrier, the type of aircraft which the carrier would employ, proposed routes and minimum schedules to be established, whether the carrier could economically give adequate service to the communities involved, the need for the service, and any other factors which may affect the public interest.

These sections were stricken from the bill by the House Committee, and I feel they should be replaced. It would insure the residents of this State that any carrier who purports to run a scheduled service in Montana would have to undergo some sort of minimal scrutiny before starting to operate.

The cost of this is small for the proposed operator, since it is set by statute at $150. In the past, the Board has been very cooperative with the proposed applicants in scheduling, holding hearings in an expeditious manner, and granting the certificates the same way.

Gentlemen, with that I would ask for your "do pass" approval of this bill with these changes.

Thank you for your consideration, and I would be available for any questions anyone might have.

submitted by. FOREST BOLES
MT CHAMBER
HB 776

EXHIBIT 4
State Admin
3/8/83

The Montana Chamber of Commerce recommends one of the following options (in order of preference) as an amendment to HB 776:

Page 6, Lines 14 and 15:

Option 1. "(b) one member of the Montana Chamber of Commerce."

Option 2. "(b) one member of the Montana Chamber of Commerce representing aviation."

Option 3. "(b) one member of the Montana Chamber of Commerce representing business aviation."

The House amendment is extremely restrictive in as much as the only facets which will now be able to qualify are the airlines and the fixed base operators. Both of these facets are already specifically represented on Page 6, Lines 22 through 25, and Page 7, Lines 1 through 4.

The Montana Aeronautics Board is quasi-judicial, therefore requiring that one of the seven members, in addition to meeting the defined qualifications, must be an attorney (MCA 2-15-124. (1)). The last two gubernatorial appointments meeting this qualification have been filled by the Montana Chamber of Commerce representative. The manner in which the House amended the bill will preclude this representation coming from the Montana Chamber of Commerce. The Governor needs to have some flexibility in choosing his appointments.

2-15-124. Quasi-judicial boards. If an agency is designated by law as a quasi-judicial board for the purposes of this section, the following requirements apply:

(1) The number of and qualifications of its members are as prescribed by law. In addition to those qualifications, unless otherwise provided by law, at least one member shall be an attorney licensed to practice law in this state.

(2) The governor shall appoint the members. A majority of the members shall be appointed to serve for terms concurrent with the gubernatorial term and until their successors are appointed and qualified. The remaining members shall be appointed to serve for terms ending on the first day of the third January of the succeeding gubernatorial term and until their successors are appointed and qualified. It is the intent of this subsection that the governor appoint a majority of the members of each quasi-judicial board at the beginning of his term and the remaining members in the middle of his term. As used in this subsection, "majority" means the next whole number greater than half.

(3) The appointment of each member is subject to the confirmation of the senate. However, the governor may appoint a member to assume office before the senate meets at its next regular session to consider the appointment. A member so appointed has all the powers of the office upon assuming that office and is a de jure officer, notwithstanding the fact that the senate has not yet confirmed the appointment. If the senate does not confirm the appointment of a member, the governor shall appoint a new member to serve for the remainder of the term.

(4) A vacancy shall be filled in the same manner as regular appointments, and the member appointed to fill a vacancy shall serve for the unexpired term to which he is appointed.

(5) The governor shall designate the chairman. The chairman may make and second motions and vote.

(6) Members may be removed by the governor only for cause.

(7) Unless he is a full-time salaried officer or employee of this state or of a political subdivision of this state, each member is entitled to be paid $25 for each day in which he is actually and necessarily engaged in the performance of board duties, and he is also entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the performance of board duties. Members who are full-time salaried officers or employees of this state or of a political subdivision of this state are not entitled to be compensated for their service as members but are entitled to be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503.

(8) A majority of the membership constitutes a quorum to do business. A favorable vote of at least a majority of all members of a board is required to adopt any resolution, motion, or other decision, unless otherwise provided by law.

History: En. 82A-112 by Sec. 1, Ch. 272, L. 1971; amd. Sec. 12, Ch. 358, L. 1973; amd. Sec. 57, Ch. 439, L. 1975; amd. Sec. 1, Ch. 186, L. 1977; R.C.M. 1947, 82A-112(1), (2)(a), (3) thru (8).

MONTANA AIRPORT MANAGEMENT ASSOCIATION

EXHIBIT 5
State Admin
3/8/83

Hugh R. Kelleher, A.A.E. Executive Secretary
Helena Airport, Helena, Montana 59601

MARCH 8, 1983

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE: I AM HUGH KELLEHER, EXECUTIVE SECRETARY FOR THE MONTANA AIRPORT MANAGEMENT ASSOCIATION (MAMA), AND AIRPORT MANAGER OF THE HELENA REGIONAL AIRPORT, HELENA.

THE MONTANA AIRPORT MANAGEMENT ASSOCIATION REPRESENTS A MAJORITY OF THE FULL-TIME AND PART-TIME MANAGERS WHO ARE MANAGING ONE OF THE MOST IMPORTANT INDUSTRIES TO MONTANA. MAMA IS COMMITTED TO THEIR COMMUNITIES IN PROVIDING MONTANA WITH THE BEST AIRPORT MANAGEMENT TO OBTAIN THE FINEST AIRPORT FACILITIES. LIKE ANY OTHER PROFESSION, MAMA MEMBERS ARE AFFILIATED WITH THE AMERICAN ASSOCIATION OF AIRPORT EXECUTIVES SO WE CAN BE KEPT FULLY AWARE OF THE LATEST METHODS AND EVENTS IN THE AIRPORT AND AVIATION INDUSTRIES. WE FEEL THAT WE HAVE THE KNOWLEDGE AND ABILITY TO PROVIDE A SERVICE TO THE STATE AS A REPRESENTATIVE OF THE DIVISION OF AERONAUTICS BOARD.

IN HB 776, PAGE 6, LINE 17, WE ARE ASKING THAT IT BE AMENDED TO READ "MONTANA AIRPORT MANAGEMENT ASSOCIATION." IT PRESENTLY STATES "MONTANA AIRPORT OPERATORS." WE FEEL THAT THE WORD "OPERATORS" IS TOO BROAD. THERE ARE MANY DIFFERENT TYPES OF OPERATORS ON AND AROUND AIRPORTS. WE FEEL THAT OTHER ORGANIZATIONS SUCH AS THE MONTANA PILOT'S ASSOCIATION, COMMERCIAL AIRLINE OPERATORS AND THE FIXED BASE

OPERATOR'S ASSOCIATION ARE NOW DESIGNATED TO SIT ON THE DIVISION OF AERONAUTICS BOARD AND WE FEEL THAT AIRPORTS ARE BECOMING SO COMPLEX AND SO IMPORTANT TO MONTANA THAT THE AIRPORTS, MORE SPECIFICALLY MAMA, SHOULD BE A PART OF THE DIVISION OF AERONAUTICS BOARD.

rm CS-34
9

EXHIBIT 5(a)

NAME Ralph K. Kelleher BILL No. 776

ADDRESS 1620 Jerome Pl DATE 3/9/83

WHOM DO YOU REPRESENT Assistant Airport Manager - Ops.

SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

EXHIBIT 6
STATE ADMIN
3/8/83

P. O. Box 1211
Forsyth, Montana 59327
March 7, 1983

Chairman and Committee Members
State Administration Committee
Helena, Montana 59601

RE: HOUSE BILL 776

Mr. Chairman and Committee Members;

Montana Pilots Association is in favor of House Bill 776 in its original form without amendments.

The state Aeronautics Board in the past has had a makeup that represented a broad cross section of aviation in Montana. This Board has done a commendable job and has been open and fair to all concerned. House Bill 776 with its current amendments could feasibly fill three of the seven Board positions with persons involved in the same segment of aviation, thus reducing the scope of representation of aviation in Montana.

Senators, change in government when needed is desirous, however, change for the sake of change usually falls into the category of bureaucratic bungling. This view is stated from no particular business interest. I represent over 500 Montana tax paying pilots, many of whom fly for business also.

We therefore recommend passage of House Bill 776 without any amendments.

Sincerely,
Robert Hollister By 213

Robert Hollister, President
Montana Pilots Association

EXHIBIT 7
State Admin.
3/8/83

MONTANA CHAPTER NINETY-NINES, Inc.

STATEMENT OF DOROTHY K. CURTIS
CHAIRMAN - MONTANA CHAPTER NINETY-NINES, INC.
BEFORE THE SENATE STATE ADMINISTRATION COMMITTEE
REGARDING HB 776
MARCH 8, 1983

The Montana Chapter of Ninety-Nines, the international organization of women pilots, urges your support of the reestablishment of the Board of Aeronautics through HB 776. However, we recommend the following amendments to this bill as it exists in the third reading form from the House.

1) Page 1, line 8 - eliminate "...and aircraft..." so that the Board will approve airport and only airport grants and loans.

   (A) The word "aircraft" was meant to be "airport" on the first reading of the bill. Attempts to correct this error have changed the intent of the loans and grants program.

2) Page 6, line 15 - "...whose principal business is aviation;" should be changed to either (1) "...who uses general aviation in their business;" or (2) "...who represents business aviation;"

   (A) The change in qualifications of the Chamber of Commerce representative was to ensure that one Board member would represent business or corporate aviation, ie. businesses which use aviation. As it now reads, the Chamber representative would be another fixed base operator.

3) Page 6, lines 16 and 17 - return the wording to read "...of the municipal league Montana League of Cities and Towns..."

   (A) It is our understanding that the League of Cities and Towns did not wish to lose their participation on the Board. If they do not object to the exclusion of their name, this need not be changed.

4) Page 6, line 17 - change "...airport operators;" to "...airport operators or managers;"

   (A) This representative, while representing the League of Cities and Towns, should be actively involved in the actual operation/management of a Montana airport.

5) Page 14, lines 15 and 16 - eliminate the words "...and aircraft..." from both lines as aircraft loans and grants are a function of neither the Board of Aeronautics nor the Aeronautics Division.

Thank you for your consideration of these amendments.

montana league of cities and towns

HELENA, MONTANA

EXHIBIT 8
State Admin.
3/8/83

RECEIVED
MAY -7 1982
MONTANA AERONAUTICS DIVISION
HELENA, MONTANA

May 3; 1982

Senator Matt Himsl, Chairman
Legislative Audit Committee
State Capitol
Helena, MT 59620

Dear Senator Himsl:

A representative of the Montana League of Cities and Towns has served on the State Aeronautics Board since it was organized in 1945. The League is committed to maintaining this seat on the board as a method of assuring that municipal airports are represented in the development and implementation of policies that affect their interests.

Our representatives on the board have always been airport operators. The current League member is Maurice Sandmeyer, Chairman of the Sidney Airport Authority. The representative for the previous eight years was Bill Merrick, Chairman of the Bozeman Airport Authority.

We are willing, however, to accept a qualification that the League's representative be an airport operator. This has been the case in the past, but we are willing to accept this requirement to assure that our representative is actively involved in the operation of a municipal airport.

The services provided by our city airports to consumers, airlines and general aviation are vitally important in Montana, and the League believes that the representation provided for these interests under the present law should be maintained.

Sincerely,

Alec Hansen

Alec Hansen
Executive Director, Designate

AH/dw
cc: Ferguson

MEMBER OF THE NATIONAL LEAGUE OF CITIES

EXHIBIT 9
State Admin.
3/8/83

HOUSE BILL 776

Comments on amendments made in the HOUSE:

1. Page 1, Line 8 and Page 14, Lines 15 & 16: Should only read "AIRPORT". Words "AND AIRCRAFT" should be stricken. The Montana Aeronautics Division does not now nor have they ever made loans for aircraft.

2. Page 6, Line 15: Should read REPRESENTING BUSINESS AVIATION or just REPRESENTING AVIATION.

The House amendment is extremely restrictive in as much as the only facet which can now qualify is the Airlines and the Fixed Base Operators. Both of these facets are already spicifically represented on Page 6, Lines 22 through 25, and Page 7, Lines 1 through 4.

3. Page 6, Lines 16 & 17: The MONTANA LEAGUE OF CITIES AND TOWNS should not have been stricken. The word "MONTANA" on Line 17 is not therefore necessary as it would be on Line 16 and therefore moot.

It should be pointed out that the Montana Aeronautics Board is "QUASI-JUDICIAL and therefore requires that one of the seven members, in addition to meeting the defined qualifications, must be an attorney. Historically the only members who could meet this qualification have been: (1) Montana Pilots Association (P-6, Line 13). (2) Montana Chamber of Commerce ((P-6, Line 14). (3) Montana League of Cities and Towns which was called the Municipal League. (P-6, Lines 16 & 17). The manner in which the House amended the bill will now restrict the attorned requirement to the Montana Pilots Association.

CIVIL AERONAUTICS BOARD
WASHINGTON, D.C. 20428

IN REPLY REFER TO: B-93

APR 29 1982

EXHIBIT 10
State Admin
3/8/83

RECEIVED
MAY -3 1982
MONTANA AERONAUTICS DIVISION
HELENA, MONTANA

Mr. Herb Sammons
Chairman
State of Montana
Aeronautics Board
P. O. Box 5178
Helena, Montana 59604-5178

Dear Mr. Sammons:

John Smith of our California office has advised me of the Montana Aeronautics Board's concern that Capitol Aero, Inc. may be operating scheduled commuter airline service without C.A.B. authority and that their service may be harmful to Big Sky Airlines' operation in Montana.

As you are aware, Capitol Aero is registered as an "air taxi operator" pursuant to Part 298 of the Board's regulations. However, if Capitol Aero intended to operate as a commuter air carrier in interstate air transportation it would first require a finding of fitness by the Board. Based on the information you submitted and our contact with the carrier, it does not appear that Capitol Aero is engaging in interstate air transportation. Therefore, any requirement to regulate their current commuter status would fall under your state's jurisdiction.

Furthermore, the Board is interested in promoting competition. If a carrier elects to operate at the same points as a subsidized carrier, this agency would not take steps to inhibit this competition.

Thank you for your interest in this matter.

Sincerely,

Hoyte B. Decker, Jr.
Assistant Director For
Operations
Office of Congressional,
Community and Consumer
Affairs

STANDING COMMITTEE REPORT

MARCH 8 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 763

Febrega (Manning)

Respectfully report as follows: That HOUSE Bill No. 763

BE CONCURRED IN

XXXXXXX

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

MARCH 8 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 832

Fabrega (Marbut)

Respectfully report as follows: That HOUSE Bill No. 832

BE CONCURRED IN

~~XXXXXXX~~
~~XXXXXXX~~

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

March 11, 1983

The forty-fifth meeting of the Senate State Administration Committee was called to order by Senator Pete Story, Chairman, on March 11, 1983 at 10:00 a.m. in room 331 of the State Capitol Building, Helena, Montana.

ROLL CALL: All members of the committee were present.

The meeting was called to hear H.B.887 and H.J.R.26 and to have executive session on bills that have been heard.

CONSIDERATION OF HOUSE BILL 887:
"AN ACT CLARIFYING WHICH DISTRICTS MUST BE USED TO ALLOCATE VOTERS TO CERTIFY A BALLOT ISSUE FOLLOWING A REAPPORTIONMENT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

REPRESENTATIVE BOB MARKS, District 80, introduced H.B.887 and stated that this is a very late introduced bill. He said his question is how are they going to determine which district to gather signatures from, the districts as they are now or as they will be in the plan submitted or to complicate things more, there is a suit filed in the federal district court on the plan. There seems to be a need for clarification. He said that when he drafted the bill at first, he talked to the staff of the legislative council who said that the clerk and recorders would find it easier to use the new redistricting but after hearing from a number of the county clerks it seems it would be simplier to use the old one. In the first year they will have to use the old districts and keep the records of registered voters in those districts and use them to qualify for signature's in 1984 election. They will have to keep those records for awhile, until after the next general election and then they can toss them. This question will not come up again until 1993 when reapportionment takes place again.

REPRESENTATIVE MARKS recommended amending the bill to change the language as Mr. Cogley has it written up in EXHIBIT 1.

PROPONENTS:

BILL ROMINE, representing the Clerk and Recorders, said either way is cumbersome. When you start splitting precinct boundaries and district boundaries, how do you determine who was in what district for the purposes of reapportionment for a new position if you are going to use a new district. He stated if there is a suit and they were suppose to use the new plan, they couldn't do it. He supported this bill as amended.

OPPONENTS: None.

QUESTIONS OF THE COMMITTEE: None.

The hearing closed on H.B. 887.

The author of HJR 26 was not present at this time so action was considered on H.B. 35.

ACTION ON HOUSE BILL 35:

SENATOR MARBUT MOVED AMENDMENT, PAGE 2, line 12, Strike 5 and put in 2.
MOTION PASSED.

SENATOR MARBUT presented Senator Towe's amendment to strike all the new language on page 2. On page 4, Senator Towe wishes to change "and administrator" and put in "a substitutive rule". Senator marbut said that this is a limitative factor. He said that they agree that the language starting with "if" on page 4, line 13 should be struck.

SENATOR MARBUT MOVED THE FOLLOWING AMENDMENT:
Page 4, line 13
Following: "amended."
Strike: remainder of lines 13 through 16 in its entirety.
MOTION PASSED.

DAVE COGLEY stated that he was in error with his information and the reference was correct, therefore the first amendment should be recalled.

SENATOR MARBUT MOVED TO CORRECT THE FIRST AMENDMENT TO:
Strike 2
Insert 5.
MOTION PASSED.
(this put it back in its original form)

SENATOR MARBUT MOVED THAT HOUSE BILL 35 BE CONCURRED IN AS AMENDED.
MOTION PASSED. Senator Stimatz will carry this bill.

CONSIDERATION OF HOUSE JOINT RESOLUTION 26.
"A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE UNITED STATES CONGRESS TO ADOPT RULES LIMITING AMENDMENTS TO BILLS, TO THE SUBJECT MATTER REFLECTED IN THE TITLE OF THE BILL.

REPRESENTATIVE GENE ERNST, District 47, introduced this bill by saying it was a request to congress not to have undermane-ammendments to their bills. He said that people in his area brought this to his attention. Those especially in the trucking industry that didn't know what was happening.

PROPONENTS: None

OPPONENTS: None

QUESTIONS OF THE COMMITTEE: None

ACTION ON HOUSE JOINT RESOLUTION 26:
SENATOR LEE MOVED H.J.R.26 BE CONCURRED IN.
MOTION PASSED.

EXECUTIVE ACTION:

ACTION ON HOUSE BILL 83: (Election Polls)
SENATOR MANNING MOVED AN AMENDMENT to strike "100" on line 13 and put in "300".
MOTION PASSED.

SENATOR MARBUT MOVED H.B.83 BE CONCURRED IN AS AMENDED.
MOTION PASSED. Senator Marbut will carry this bill. (Manning-No)

ACTION ON HOUSE BILL 169: (Compensation for teachers)

Discussion was held on this bill and there was a concern about those that would try to boost their retirement in the last few years. Dave Cogley said that he talked to Mr. Johnson who said he would rather not mess with this for fear of drawing attention to it and that it has not been a problem here.

SENATOR MARBUT MOVED THE AMENDMENTS presented by Irving Dayton to strike "UP TO A MAXIMUM OF $150 A MONTH"
MOTION PASSED.

SENATOR MANNING MOVED SENATOR TOWE's AMENDMENTS (EXHIBIT 2)
MOTION PASSED.

SENATOR MANNING MOVED THE PERS AMENDMENTS presented by Bob Johnson. (See EXHIBIT 2)
MOTION PASSED

SENATOR HAMMOND MOVED THAT HOUSE BILL 169 BE CONCURRED IN AS AMENDED.
MOTION PASSED. Senator Manning voted "no". Senator Hammond will carry this bill.

ACTION ON HOUSE BILL 313:
SENATOR STORY asked for a motion to table this bill as the Indians do not want this position moved.
SENATOR HAMMOND MOVED H.B.313 BE TABLED.
MOTION PASSED.

ACTION ON HOUSE BILL 427: (data processing)
SENATOR LEE MOVED AMENDMENT 1 (EXHIBIT 3)
MOTION PASSED.
SENATOR LEE MOVED AMENDMENT 2 (EXHIBIT 3)
MOTION PASSED.
SENATOR MANNING MOVED H.B.427 BE CONCURRED IN AS AMENDED.
MOTION PASSED. Senator Manning will carry this bill.

ACTION ON HOUSE BILL 514: (accruing leave)
A discussion was held on this bill and the possibility of an amendment.
SENATOR LEE MOVED H.B.514 BE CONCURRED.
Roll call vote, EXHIBIT 4.
MOTION PASSED. Senator Lee will carry this bill.

ACTION ON HOUSE BILL 626:
SENATOR MARBUT MOVED H.B.262 BE CONCURRED IN.
MOTION PASSED. Senator Manning will carry this bill.

ACTION ON HOUSE BILL 231: (firefighters retirement)
SENATOR MARBUT MOVED THAT H.B.231 DO NOT PASS.
A discussion was held. Mr. Nachtsheim, representing the Department of Administration presented the committee with EXHIBIT 5. Senator Towe remarked that they cannot dis-incorporate unless they make their debts known and how they are taking care of them.
SENATOR MANNING MADE A SUBSTITUTE MOTION THAT H.B.231 DO PASS.
Dave Cogley stated that there is a technical error. 19-3-704 1(B) should be 19-13-704 1(b) on page 6, line 21.
SENATOR TOWE MOVED THE ABOVE AMENDMENT.
MOTION PASSED.
SENATOR MANNING MOVED H.B.231 BE CONCURRED IN AS AMENDED.
Roll call vote. Motion failed on a tie vote.
EXHIBIT 6.
MOTION FAILED.

ACTION ON HOUSE BILL 691: (board of athletics)
There was a discussion on this bill and the former wrestler, Sonny O'Day and the fact that we do not have a commission and regulations in the state. Senator Story asked his intern, Dan Crowley to talk to Mrs. Garrett because his concern was in reinstituting it they did not broaden their powers.

DAN CROWLEY said that she said that the only thing that was broadened was that they were given statutory power to appoint someone to act in their place if they did not go to a wrestling match where before it was just a rulemaking. Now the stands will have to be brought up to date. He stated there are also some amendments. SENATOR STORY stated that he proposed an amendment because they found some of the people have been serving on the board forever. Sonny O'Day has served through 9 governors. Senator Towe said that he missed one governor because his name isn't really Sonny O'Day and the governor didn't know who he really was. This amendment limits serving beyond 12 years.

SENATOR MANNING MOVED THAT SENATOR STORY'S AMENDMENT BE ADOPTED to limit serving beyond 12 years. (H.B.691) EXHIBIT 7.
SENATOR TOWE MADE A SUBSTITUTE MOTION to add the word "consecutive".
MOTION PASSED.

Dave Cogley presented Jim Nugent's amendment, which is a repealer and effective date.

SENATOR TOWE MOVED THE NUGENT AMENDMENT TO H.B. 691 as follows.

Page 8, following line 24.
Insert: "Section 14, Repealer. Sec 7-21-4212, MCA, is repealed.
Section 15. Effective date. This act is effective on passage and approval.
Title, line 9.
Following: "EVENTS"
Insert: ";REPEALING SECTION 7-21-4212, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

MOTION PASSED

SENATOR MANNING MOVED THAT HOUSE BILL 691 BE CONCURRED IN AS AMENDED.
MOTION PASSED. Senator Story will carry this bill.

HOUSE BILL 231 was RECALLED WITH A MOTION BY SENATOR MANNING.
MOTION PASSED. Discussion resumed on this bill.
SENATOR MANNING MOVED THAT HOUSE BILL 231 BE CONCURRED IN AS AMENDED.
MOTION PASSED. See roll call vote, EXHIBIT 8. Senator Manning will carry this bill.

ACTION ON HOUSE BILL 490: (architects)
SENATOR LEE presented his amendments, EXHIBIT 9, and MOVED THEY DO PASS.
MOTION PASSED
Senator Towe questioned compensation pay and the fiscal note.

SENATOR TOWE MOVED THE FOLLOWING AMENDMENT TO H.B.490.
Page 4, line 22.
Strike: "of $25 a day"
Insert: "provided in 37-1-133"

SENATOR LEE MOVED THAT HOUSE BILL 490 BE CONCURRED IN AS AMENDED.
MOTION PASSED. Senator Marbut will carry this bill.

ACTION ON HOUSE BILL 873: (office of aging)
A discussion was held on this bill. Senator Marbut presented his amendments to the committee. EXHIBIT 11.
SENATOR MARBUT MOVED THE ADOPTION OF HIS AMENDMENTS.
He explained his amendment by saying that amendment 2 is a guideline for the character of the council. Amendment 3 is to change the language from "FROM RECOMMENDATION FROM" to "after consultation with". Then there is the title amendments. The mechanical problem was addressed. He said that the coordinator being 60 years or older is a controversy but that he likes the idea of using the senior citizen.

SENATOR TOWE MOVED THAT H.B.873 BE CONCURRED IN AS AMENDED.
MOTION PASSED.

ACTION ON HOUSE BILL 776: (board of aeronautics)
This bill was discussed and it was brought out that Mr. Kelleher has expressed in his testimony and the handouts of this morning EXHIBITS 12, 13 and 14 the importance of Montana Airport Management Association (MAMA) having a representative on the board. The question of a 9th member was discussed and also the appointment of a licensed attorney. The attorney was considered by the committee and mentioned that it might be that another member would be an attorney. It was also remarked that a nine member board does not necessarily mean a quorum and Senator Lee and Senator Hammond objected to a nine member board saying "more members, more money". Senator Lee said that aviation law is a specialty.

SENATOR TOWE presented his amendments to the committee.
SENATOR TOWE MOVED AMENDMENT 1,
Page 6.
Strike: line 20 and 21
Insert: "one member of the Montana Airport Management Association.

Page 6, line 15.
Strike: line 15 in its entirety.
MOTION PASSED.

SENATOR TOWE MOVED AMENDMENT 2.
Page 6, line 16.
Following: "member"
Insert: "of the Montana League of Cities and Towns"
SENATOR HAMMOND MADE A SUBSTITUTE MOTION TO LEAVE SUBSECTION (c) AS IT IS.
MOTION PASSED.

SENATOR MARBUT MOVED THE FOLLOWING AMENDMENT:
Page 14, line 15, 16 and wherever it may state this in the bill. Including the title.
MOTION RASSED.

It was the decision of the chairman to hold this bill until Monday when the amendments could be compiled and presented in order.

ACTION of H.B.776 - HOLD.

SENATOR MANNING INTERTAIN A MOTION TO REVERT BACK TO HOUSE BILL 873.
MOTION PASSED.

SENATOR MANNING MOVED THE FOLLOWING AMENDMENT:
1. Title, line 11.
Insert: "PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 2
Following: line 9
Insert: "Section 3. Effective date. This act is effective on passage and approval."
MOTION PASSED.

SENATOR MANNING MOVED H.B.776 BE CONCURRED IN AS AMENDED.
MOTION PASSED.

ACTION ON HOUSE BILL 721: Referring to EXHIBIT 15.

SENATOR TOWE MOVED AMENDMENT TO Insert "public or" after "any" on page 3, line 20. MOTION PASSED.

SENATOR TOWE MOVED TO STRIKE all lines 4 through 14 on page 4
MOTION PASSED.

SENATOR TOWE MOVED TO STRIKE "BY A HEALTH INSTITUTION" on page 5, line 25 and page 6, line 1.
MOTION PASSED

SENATOR TOWE MOVED TO STRIKE "facility" on page 12, line 16, and insert participating health institution.

MOTION PASSED.

SENATOR TOWE MOVED Page 14, line 16, put a "." after the word "PERIOD" and strike the remainder of line 16 through them on page 15, line 1.
MOTION PASSED.

SENATOR TOWE MOVED page 16, line 15, strike "eligible" and add "participating" and strike "facility" and insert "institution"; and on Page 21, line 5, strike "FACILITY" and add "institution".
MOTION PASSED.

SENATOR TOWE MOVED THE HOUSE BILL 721 BE CONCURRED AS AMENDED.
MOTION PASSED.

The meeting adjourned at 12:20 p.m.

Pete Story

CHAIRMAN, Senator Pete Story

ROLL CALL

STATE ADMINISTRATION COMMITTEE

47th LEGISLATIVE SESSION -- 1983 Date 3/11/83

NAME	PRESENT	ABSENT	EXCUSED	SENATE SEAT
SENATOR PETE STORY, Chairman	X			45
SENATOR H. W. HAMMOND, Vice Ch	X			34
SENATOR REED MARBUT	X			44
SENATOR LARRY TVEIT	X			33
SENATOR R. MANNING	X			48
SENATOR LAWRENCE STIMATZ	X			7
SENATOR THOMAS TOWE	X			26
SENATOR GARY LEE	X			

Each day attach to minutes.

DATE March 11, 1983

COMMITTEE ON

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
[illegible]	[illegible]	[illegible]	[illegible]	

(Please leave prepared statement with Secretary)

EXHIBIT 1
March 11, 1983
State Ad

Amendment to H.B.887 Third Reading Copy

For Rep. Marks

1. Page 1, line 16
   Following: "5-1-111"
   Insert: "and before members of the house of representatives have been elected and qualified under the plan"

2. Page 1, line 17
   Strike: "involved"
   Insert: "among which the signature must be allocated

3. Page 1, line 18.
   Strike: "established in the plan"
   Insert: "in existence when the plan was filed"

HB 169 (3rd Reading)

EXHIBIT 2
State Admin.
3/11/83

1. Page 3, line 22.
Following: "agreement"
Insert: "to a tax sheltered annuity or deferred compensation program,"

2 Page 3, line 24.
Strike: "UP TO A MAXIMUM OF $150 A MONTH"

3. Page 4, line 1.
No vote any discussion
Strike: "The"
Insert: "Except for amounts paid under a salary reduction agreement or the value of housing as provided in this subsection, the"

3. Page 4, line 11.
Following: "year"
Insert: ", except that any termination pay, as defined in subsection (5)(b), received by the member is limited to the amount actually paid, and is not the amount he would have earned had he completed the full year"

EXHIBIT 3
State Admin.
3/11/83

AMENDMENTS TO HB 427 - THIRD READING COPY

1. Page 2, line 3.
Strike: "The"
Insert: "(1) Except as provided in subsection (2), the"
Renumber: subsequent subsections

2. Page 2.
Following: line 25
Insert: "(2) The responsibilities of the director under this section do not apply to the offices of the ~~secretary of state~~, ~~attorney general~~, superintendent of public instruction, or auditor, and those offices are exempt from the requirements of this section."

ROLL CALL VOTE

EXHIBIT 4
State Admin.
3/11/83

SENATE COMMITTEE STATE ADMINISTRATION

Date March 11, 1983 Bill No. 514 Time 10:00

NAME Prohibiting Pub. Empl. from Accruing Leave & Sick & Annual

	(YES)	NO
SENATOR H.W. HAMMOND	X	
SENATOR REED MARBUT		X
SENATOR LARRY TVEIT	X	
SENATOR R. MANNING		X
SENATOR LAWRENCE STIMATZ		X
SENATOR THOMAS TOWE	X	
SENATOR PETE STORY	X	
Senator Gary Lee	X	

Secretary, Leona Williams

Chairman SENATOR PETE STORY

Motion: MOTION MADE BY SENATOR LEE.

(include enough information on motion--put with yellow copy of committee report.)

RECEIVED
SEP 27 1982
DEPT. OF ADMINISTRATION
DIRECTORS OFFICE

EXHIBIT 5
State Admin.
3/11/83

VOLUME NO. 39 OPINION NO. 72

FIREFIGHTERS - Interpretation of Firefighters' Unified Retirement System;

RETIREMENT SYSTEMS - Firefighters' Unified Retirement System;

STATE AGENCIES - State Auditor's function with regard to Firefighters' Unified Retirement System;

MONTANA CODE ANNOTATED - Sections 19-11-606, 19-11-606(1), 19-13-1006;

OPINIONS OF THE ATTORNEY GENERAL - 37 Op. Att'y Gen. No. 77 (1977);

1979 LAWS OF MONTANA - Chapter 14, section 13, chapter 457, section 2.

HELD: Section 19-13-1006, MCA, permits the payment of supplemental benefits to the recipients based on the monthly salary paid that same fiscal year to a confirmed active firefighter of the city that last employed him. The funds distributed to PERD for this purpose in subsection (2) should therefore be used to reimburse PERD for the payments made to the recipients in the previous fiscal year.

17 September 1982

M. Valencia Lane, Associate Counsel
Insurance and Legal Division
Department of Administration
Mitchell Building
Helena, Montana 59620

Dear Ms. Lane:

You have requested an opinion concerning interpretation of section 19-13-1006, MCA, which provides:

> Supplement to certain retirement allowances. The plan shall pay to each firefighter retired before July 1, 1973, or his surviving spouse and children a monthly retirement allowance of not less than one-half the regular monthly salary paid to a confirmed active firefighter of the city that last employed him as a firefighter, as provided each year in the budget of that city. In the case of volunteer firefighters, the retirement allowance

may not exceed $75 per month. Distribution of the funds provided for this purpose under 19-11-606(1) shall be made as follows:

(1) At the beginning of each fiscal year the administrator shall request and the state auditor shall issue from the earmarked revenue fund and deliver to the administrator an amount certified to be equal to the total annual dollar difference between what the retirees or their surviving spouses and children received from the fund and one-half of the salary paid by the respective city or town to a confirmed active firefighter for the fiscal year just preceding.

(2) The administrator shall use the funds to increase the monthly retirement allowances of the retirees or their surviving spouses and children to an amount equal to one-half of the salary that was paid to a confirmed active firefighter in the respective city or town for the preceding year.

This section is part of the Firefighters' Unified Retirement System, Title 19, chapter 13, which was enacted in 1981. This system is administered by the Public Employees' Retirement Division (PERD) and it applies to first- and second-class cities with full-paid firefighters on a compulsory basis, and to other cities on a voluntary basis. The remaining cities participate in the old Firefighters' Retirement System, Title 19, chapter 11, MCA, which is administered by the relief associations of the individual cities.

Section 19-13-1006, MCA, is substantially the same as, and its language was in fact taken from, section 19-11-606, MCA, the corresponding provision in the old retirement system. The only difference is that under the old system, the money for the supplemental benefits is transferred by the State Auditor from the earmarked revenue fund to the individual cities and towns to be administered by their respective relief associations; under the new system, the money is transferred to PERD. Section 19-11-606, MCA, was enacted in 1975 and since that time has been administered as follows: The retiree's supplement is calculated according to the monthly salary paid to a confirmed active firefighter that same fiscal year. Thus when the firefighter's salary increases during any given month, the retiree's benefits increase accordingly at the same time. The money to pay for those increases will not have been received from the earmarked fund, however, because the statutory formula which establishes the amount to be received each year from the earmarked fund is calculated based on salaries and benefits received by a confirmed active firefighter in the preceding fiscal year and does not take into account anticipated increases for the coming year. As a result, the relief associations have administered the program by covering current year increases from their own funds and then reimbursing their funds from the revenue received from the earmarked fund at the beginning of the new fiscal year.

I have been informed by PERD, and there appears to be no dispute, that the Firefighters' Unified Retirement System intended to continue the supplemental benefits under section 19-11-606, MCA, for firefighters transferring to the new system, including the manner in which the benefits were computed and administered. The same statutory language was adopted to ensure that continuity. However, PERD, in interpreting section 19-13-1006, MCA, did not agree that the

statute authorized the supplemental benefits to be computed and distributed in the manner they had been under the old system. PERD believes that the statute requires the following application: At the beginning of each fiscal year, the State Auditor transfers to PERD an amount based on salaries and benefits received in the previous fiscal year; the amount of supplemental benefits to be received by the retirees is based on the regular monthly salary a confirmed active firefighter received in the previous fiscal year. Thus when a confirmed active firefighter receives a raise in salary, it will be reflected in the retiree's benefits in the following fiscal year. PERD reasons that subsection (2) of section 19-13-1006, MCA, provides that the money used for the supplemental benefits is given to PERD, not to "reimburse" PERD's retirement fund, but to supplement the benefits being received by the retirees, the amount of the supplement being "equal to one-half of the salary that was paid to a confirmed active firefighter in the respective city or town for the preceding year." In other words, the money for the supplemental benefits is not given to the retiree until it is received by PERD. The difference in interpretation affects the timing of an increase in benefits. Under the firefighters' interpretation, the retiree receives an increase in benefits at the same time the confirmed active firefighter receives a raise in salary. Under PERD's interpretation, the retiree's benefits will not reflect the raise until the next fiscal year.

Section 19-13-1006, MCA, has a dual purpose. The first paragraph is substantive and describes the supplemental benefits to which the eligible recipients are entitled. The remainder of the section provides the procedure for its administration. The ambiguity lies in the wording of the first sentence of the substantive section: "The plan shall pay...a monthly retirement allowance of not less than one-half the regular monthly salary paid to a confirmed active firefighter of the city that last employed him as a firefighter, as provided each year in the budget of that city." (Emphasis added.) This language does not clearly express which year's salary is to be the basis of the retiree's allowance. The drafters of the new provisions intended that a recipient's allowance increase simultaneously with a confirmed active firefighter's salary increase. The relief associations adopted an interpretation of the administrative portion of the statute which permitted this simultaneous increase in benefits by advancing the funds needed for the increases and then reimbursing their own funds at the beginning of each fiscal year.

It is a fundamental rule of statutory construction that the intent of the legislature controls. State Bar of Montana v. Krivec, 38 St. Rptr. 1322, 632 P.2d 707 (1981). A statute should not be interpreted to defeat the legislature's object or purpose. Doull v. Wohlschlager, 141 Mont. 354, 377 P.2d 758 (1963). Furthermore, the legislature, in enacting section 19-13-1006, is presumed to have acted with full knowledge of the construction given to the predecessor statute, section 19-11-606, from which the wording of the present statute was adopted, and in enacting the new law is presumed to have adopted such construction. Helena Valley Irr. District v. State Highway Commission v. West Farm Co., 142 Mont. 239, 383 P.2d 277 (1963).

All subsections of the statute should be construed in harmony to effect the intent of the legislature when possible. Montana Auto Ass'n v. Greely, 38 St. Rptr. 1174, 632 P.2d

300 (1981). Section 19-13-1006 can be so construed and the administrative section can be construed in harmony with the substantive portion. The reenactment of the wording of the old statute is also an adoption of the construction placed on that section by the agencies and associations administering it. State ex rel. Lewis and Clark County v. State Board of Public Welfare, 141 Mont. 209, 376 P.2d 1002 (1962).

The need for corrective legislation is evident. Legislation authorizing the release of additional amounts of money from the earmarked revenue fund, which reflect estimated anticipated raises in salaries of the confirmed active firefighters for the coming year, might be considered.

Similar problems arose with the Police Retirement system, Title 19, chapter 9, MCA. See 37 Op. Att'y Gen. No. 77 (1977). The problems inherent in those statutes were corrected through legislation. See 1979 Mont. Laws, chapter 14, § 13, chapter 457, § 2. Similar legislation might be appropriate here.

THEREFORE, IT IS MY OPINION:

> Section 19-13-1006, MCA, permits the payment of supplemental benefits to the recipients based on the monthly salary paid that same fiscal year to a confirmed active firefighter of the city that last employed him. The funds distributed to PERD for this purpose in subsection (2) should therefore be used to reimburse PERD for the payments made to the recipients in the previous fiscal year.

Very truly yours,

MIKE GREELY
Attorney General

MG/DHcC/kb

ROLL CALL VOTE

EXHIBIT 6

SENATE COMMITTEE STATE ADMINISTRATION

(TIE VOTE)

Date March 11, 1983 House Bill No. 23 Time 10:00

NAME STATE ADMINISTRATION COMMITTEE	4 YES	4 NO
SENATOR H.W. HAMMOND		X
SENATOR REED MARBUT		X
SENATOR LARRY TVEIT		X
SENATOR R. MANNING	X	
SENATOR LAWRENCE STIMATZ	X	
SENATOR THOMAS TOWE	X	
SENATOR PETE STORY		X
	X	

FAILS (FAILS)

Secretary, Leona Williams

Chairman SENATOR PETE STORY

Motion: Senator Manning moved, BE CONCURRED IN AS AMENDED

Tie vote--failed

(include enough information on motion--put with yellow copy of committee report.)

State Administration
Ammendment to HB 691

EXHIBIT 7
March 11, 1983

State Admin.

1. P. 1, line 16.
Following: "years"
Insert: ", and no member shall serve for more than 4 terms"

ROLL CALL VOTE

SENATE COMMITTEE STATE ADMINISTRATION

Date March 11, 1983 House Bill No. 231 Time 10:00

NAME STATE ADMINISTRATION COMMITTEE	(YES)	NO
SENATOR H.W. HAMMOND		X
SENATOR REED MARBUT	X	
SENATOR LARRY TVEIT		X
SENATOR R. MANNING	X	
SENATOR LAWRENCE STIMATZ	X	
SENATOR THOMAS TOWE	X	
SENATOR PETE STORY		X
SENATOR GARY LEE	X	

Secretary, Leona Williams

Chairman SENATOR PETE STORY

Motion: SENATOR MANNING RECALLED HB231 MOTION BE CONCURRED IN

MOTION PASSED

(include enough information on motion--put with yellow copy of committee report.)

HB 490 (Amend 3rd Reading Copy)

EXHIBIT 9
State Admin.
3/11/83

1. Title, line 9.
Strike: "37-65-103,"

2. Page 2.
Following: line 16
Insert: "(6) 'Public building' means any building which the state or any political subdivision thereof maintains for the use of the public."

3. Page 2, line 17 through page 4, line 17.
Strike: section 2 in its entirety
Renumber: subsequent sections

4. Page 10, line 8.
Strike: "10"
Insert: "9"

5. Page 10, line 9.
Strike: "10"
Insert: "9"

EXHIBIT 11

Sen. A. Reed Marbut

March 11, 1983

State Admin.

HB 873

Amend HB 873, third reading copy, as follows:

1. Title, line 11.
   Following: "AGING"
   Insert: "AND REQUIRING THE GOVERNOR TO APPOINT AN ADVISORY COUNCIL ON AGING AND A COORDINATOR ON AGING"

2. Page 1, line 17.
   Following: line 16
   Insert: "(2) The governor shall appoint an advisory council on aging. The council is composed of 11 members, a majority of whom must be 60 years of age or older. Members shall serve for 3-year terms. Vacancies shall be filled by appointment for the unexpired term. The council is allocated to the governor's office for administrative purposes only."
   Renumber: subsequent subsections

3. Page 1, line 18.
   Strike: "FROM RECOMMENDATIONS FROM"
   Insert: "after consultation with"

4. Page 1, line 20.
   Following: line 19
   Strike: subsection (3) in its entirety
   Insert: "(4) The advisory council on aging shall act as the advisory board to the coordinator on aging."

5. Page 1, line 25.
   Following: "shall"
   Insert: ", with the advice and consent of the advisory council on aging,"

AIRPORT MANAGER WANTED

EXHIBIT 12
State Admin.
3/11/83

Must have extensive background in aviation—must not be too old or too young—as someone said, "Old enough to know better and young enough to enjoy it."

Must have engineering experience and practical know-how in all phases of building roads, runways, taxiways, hangars, fuel installations, including jet fuel, electrical systems, sewer systems, drainage systems, water systems, gas line systems, and all other utility systems.

Must be familiar with laws pertaining to zoning, taxes, aviation, fire codes, electrical codes, water, plumbing and gas codes, real estate leases, easements, civil service, civil rights, Federal aid to airports, State aid to airports, budgets, bond issues, (general obligation and revenue), traffic, financing in general, and investments.

Must know psychology, insurance, labor mediation, public relations, public speaking, farming, mechanics, politics, horticulture, and pest eradication.

Must be able to understand Township Assessors and Supervisors, Township Road Commissioner, Township Health Commissioner, the Mayor, City Council members, City Manager, City Street Superintendent, City Water Superintendent, City Health Department, City Building inspectors, the Sheriff, Chief of Police, State Police, State Roads and Highways Department, County Highway Department, County and City Zoning Officers, State Aeronautics Commission, Federal District Airport Engineer, FAA Regional Director and his staff, FAA Washington office, including the heads of all the divisions in FAA. He is not required to like these people; just be able to get along with them.

Should be well and favorably known to the Governor, the Congressman, Senators, State Representatives and State Senators, all local newspaper editors, and at least one National Aviation Editor, preferably George Haddaway.

Must be willing to work under a low budget and with little or no job security and be available 24 hours a day, seven days a week—should be able to go without sleep for several days at a time during snow storms, floods, hurricanes, and VIP visits.

Must have FBI clearance and possess visionary and prophetic powers concerning the future of helicopters, VTOL, air traffic, land use, noise abatement, next year's TSOs, FAA's policy decisions next week and next month on flight service stations, weather stations, tall structures, towers, general aviation, and air lines—and be able to predict snow storms accurately.

Must be a first rate housekeeper and landscape man; must know paints, painting and color requirements, tree raising, seeding, fencing, garbage disposal and sanitary landfill techniques and procedures.

Should be able to see his airport and its future from the point of view of the community, the taxpayer, the pilot, the aircraft owner, the passengers and users, and the Airport Commission.

Must be familiar with the prevailing contract and lease terms and prices for landing fees, floor space, parking space, fuel flowage fees, car rentals, restaurant operation, liquor concession, clean towel and window-washing service and the nondiscriminatory provisions required in all contracts by FAA.

Must have good basic knowledge of and be able to operate a police department and fire department, and know about wages, salaries, fire and police equipment, including crash procedures off and on the field.

Must be skilled in obtaining surplus equipment for nothing and be able to rebuild and rehabilitate such equipment without cost.

Must have basic knowledge of accounting, particularly cost accounting and its application to airports, and know about insurance plans for employees.

Must be able to conduct a constant program of education, designed to convince everyone of the necessity for and the value of the airport to each man, woman, child and business within the taxing boundaries.

Must be diplomatic in dealing with all local organizations that request use of the runway as drag strips, free land for pistol range, dog and horse shows, dog pound, tennis courts, trap shooting, ball diamonds, sports car rallies, picnics, and free gravel.

Must be patient with representatives of drum and bugle corps, policeman's ball, sheriff's ball, fireman's ball, Boy Scouts, Girl Scouts, Red Cross, Salvation Army, childrens homes, Foundation for Arthritis, cancer, muscular distrophy, heart, mental diseases, polio, home for wayward girls, and church conventions.

Above all he must have a sense of humor and a recommendation from AAAE.

Preference may be given to a Democrat from Texas and we may also consider as trainee, a Socialist from Minnesota.

Write Box 13 and do not contact present manager—he doesn't know he's leaving.

("Airport Manager Wanted" was included in the talk given by Foster Smith, Chairman, Rockford Airport Authority at the AAAE Annual Conference in Fort Worth, April 27, 1965, and is distributed to AAAE members in response to the many requests for copies.)

HATE SURVEYS

MONTANA
AIRPORT
MANAGEMENT
ASSOCIATION

EXHIBIT 13
State Admin.
3/11/83

MARCH 8, 1983

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE: I AM HUGH KELLEHER, EXECUTIVE SECRETARY FOR THE MONTANA AIRPORT MANAGEMENT ASSOCIATION (MAMA), AND AIRPORT MANAGER OF THE HELENA REGIONAL AIRPORT, HELENA.

THE MONTANA AIRPORT MANAGEMENT ASSOCIATION REPRESENTS A MAJORITY OF THE FULL-TIME AND PART-TIME MANAGERS WHO ARE MANAGING ONE OF THE MOST IMPORTANT INDUSTRIES TO MONTANA. MAMA IS COMMITTED TO THEIR COMMUNITIES IN PROVIDING MONTANA WITH THE BEST AIRPORT MANAGEMENT TO OBTAIN THE FINEST AIRPORT FACILITIES. LIKE ANY OTHER PROFESSION, MAMA MEMBERS ARE AFFILIATED WITH THE AMERICAN ASSOCIATION OF AIRPORT EXECUTIVES SO WE CAN BE KEPT FULLY AWARE OF THE LATEST METHODS AND EVENTS IN THE AIRPORT AND AVIATION INDUSTRIES. WE FEEL THAT WE HAVE THE KNOWLEDGE AND ABILITY TO PROVIDE A SERVICE TO THE STATE AS A REPRESENTATIVE OF THE DIVISION OF AERONAUTICS BOARD.

IN HB 776, PAGE 6, LINE 17, WE ARE ASKING THAT IT BE AMENDED TO READ "MONTANA AIRPORT MANAGEMENT ASSOCIATION." IT PRESENTLY STATES "MONTANA AIRPORT OPERATORS." WE FEEL THAT THE WORD "OPERATORS" IS TOO BROAD. THERE ARE MANY DIFFERENT TYPES OF OPERATORS ON AND AROUND AIRPORTS. WE FEEL THAT OTHER ORGANIZATIONS SUCH AS THE MONTANA PILOT'S ASSOCIATION, COMMERCIAL AIRLINE OPERATORS AND THE FIXED BASE

OPERATOR'S ASSOCIATION ARE NOW DESIGNATED TO SIT ON THE DIVISION OF AERONAUTICS BOARD AND WE FEEL THAT AIRPORTS ARE BECOMING SO COMPLEX AND SO IMPORTANT TO MONTANA THAT THE AIRPORTS, MORE SPECIFICALLY MAMA, SHOULD BE A PART OF THE DIVISION OF AERONAUTICS BOARD.

MONTANA
AIRPORT
MANAGEMENT
ASSOCIATION

EXHIBIT 14
State Admin.
3/11/83

March 11, 1983

Senate State Administration Committee
Montana State Capitol
Helena, Montana 59601

Dear Senators:

Please accept my thanks and the thanks of the Montana Airport Management Association regarding our testimony on House Bill 776.

As you will remember, the Montana Airport Management Association is asking that an amendment be made to page 6, line 17 where it presently states "Montana Airport Operators." We are asking that it be changed to read "Montana Airport Management." We would prefer that "Association" be included, but if this is not possible, the wording "Montana Airport Management" would suffice.

Please find enclosed copy of a speech that was given before the American Association of Airport Executives way back in 1965. It holds pretty true even in these modern times, although now I feel that there are more job requirements for the Airport Manager.

We appreciate your consideration and hope that you see it our way.

Yours truly,

MONTANA AIRPORT MANAGEMENT ASSOCIATION

Hugh R. Kelleher, A.A.E.
Executive Secretary

Enclosure
HRK/d

AMENDMENTS TO HOUSE BILL 721

EXHIBIT 15
State Admin.
3/11/83

MR. CHAIRMAN:

I move to amend House Bill 721 by making the following changes:

1. On page 3, Section 2(4), line 20, delete the word "private"; on lines 21 and 22, following the first "or" on line 21, delete the words "institution or public hospital or institution" and substitute in their place "other organization".

2. On pages 5 and 6, Section 4, line 25 of page 5 and line 1 of page 6, place a period (.) after "Health Facility" on line 25 and delete the words "BY A HEALTH INSTITUTION".

3. On page 4, delete subsection (6) in its entirety, beginning on line 4 and ending on line 14.

4. On page 4, line 15, change "(7)" to "(6)".

5. On page 12, Section 8(2), line 16, delete "Facility" and replace with "participating health institution".

6. On page 14, Section 13, place a period (.) after the word PERIOD on line 16 and delete all language beginning on line 16 with the word "including" and all language on lines 16 through 25 on page 14 ond on line 1 of page 15.

7. On page 16, Section 14(2)(a) on line 15 delete the word "eligible" and replace it with "participating" and delete the word "facility" and replace it with the word "institution".

8. On page 21, Section 18, line 5, delete the word "FACILITY" and replace it with "institution".

STANDING COMMITTEE REPORT

MARCH 11 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 887

MARKS (HAMMOND)

Respectfully report as follows: That HOUSE Bill No. 887

third reading, be amended as follows:

1. Page 1, line 16.
   Following: "5-1-111"
   Insert: "and before members of the house of representatives have been elected and qualified under the plan"

2. Page 1, line 17.
   Strike: "involved"
   Insert: "among which the signatures must be allocated

3. Page 1, line 18.
   Strike: "established in the plan"
   Insert: "in existence when the plan was filed"

And, as so amended
BE CONCURRED IN

XDO PASS

SENATOR PETE STORY, Chairman.

STATE PUB. CO.
Helena, Mont.

11 @

STANDING COMMITTEE REPORT

MARCH 11 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 35

DAILY (STIMATZ)

Respectfully report as follows: That HOUSE Bill No. 35

third reading, be amended as follows:

1. Page 4, line 13.
Following: "amended."
Strike: remainder of lines 13 through 16 in their entirety.

And, as so amended

BE CONCURRED IN

DO PASS

SENATOR PETE STORY. Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

MARCH 11 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 626

BARDANOUVE (MANNING)

Respectfully report as follows: That HOUSE Bill No. 626

BE CONCURRED IN

xxxxxxxxx
xxxxxxx

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

MARCH 11 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE JOINT RESOLUTION ~~XXXX~~ No. 26

ERNEST (LEE)

Respectfully report as follows: That HOUSE JOINT RESOLUTION ~~XXXX~~ No. 26

BE CONCURRED IN

~~XXXXXXXX~~

Chairman.

SENATOR PETE STORY

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

MARCH 11 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 514

SPAETH (LEE)

Respectfully report as follows: That HOUSE Bill No. 514

BE CONCURRED IN

~~DO PASS~~

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

MARCH 11 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 169

Dudaily (Hammond)

Respectfully report as follows: That HOUSE Bill No. 169

third reading, be amended as follows:

1. Page 3, line 22.
   Following: "agreement"
   Insert: "to a tax sheltered annuity or deferred compensation program,"

2. Page 3, line 24.
   Strike: "UP TO A MAXIMUM OF $150 A MONTH"

3. Page 4, line 11.
   Following: 'year"
   Insert: ", except that any terminiation pay, as defined in subsection (5)(b), received by the member is limited to the amount actually paid, and is not the amount he would have earned had he completed the full year"

And, as so amended
BE CONCURRED IN
~~DO PASS~~

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

MARCH 11 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 83

Hemstad (Marbut)

Respectfully report as follows: That HOUSE Bill No. 83

third reading, be amended as follows:

1. Page 1, line 13.
   Strike: "100"
   Insert: "300"

And, as so amended
BE CONCURRED IN

~~DO PASS~~

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

March 11 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration House Bill Bill No. 490

ıbrega (Lee)

Respectfully report as follows: That House Bill No. 490

3rd Reading bill (Blue Copy) be amended as follows:

1. Title, line 9.
Strike: "37-65-103,"

2. Page 2.
Following: line 16
Insert: "(6) 'Public building' means any building which the state or any political subdivision thereof maintains for the use of the public."

3. Page 2, line 17 through page 4, line 17.
Strike: section 2 in its entirety
Renumber: subsequent sections

4. Page 4, line 22
Strike: "of $25 a day"
Insert: "provided in 37-1-133"

~~XXXXXXX~~

CONTINUED..

Chairman.

STATE PUB. CO.
Helena, Mont.

5. Page 10, line 8.
Strike: "10"
Insert: "9"

6. Page 10, line 9.
Strike: "10"
Insert: "9"

And, as so amended,
BE CONCURRED IN

PETE STORY Chairman.

HC

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

March 11 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 691

Brand (R.E. Manning)

Respectfully report as follows: That HOUSE Bill No. 691

Third reading bill (blue copy) be amended as follows:

1. Title, line 9.
   Following: "EVENTS"
   Insert: "; REPEALING SECTION 7-21-4212, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 1, line 16.
   Following: "years"
   Insert: "and no member shall serve for more than 4 consecutive terms"

3. Page 8.
   Following: line 24
   Insert: "Section 14. Repealer. Section 7-21-4212, MCA, is repealed.
   Section 15. Effective date. This act is effective on passage and approval."

~~DO PASS~~
And, as so amended,
BE CONCURRED IN

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

March 11, 19 83

MR. PRESIDENT:

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 427

REP. HOLLIDAY (SEN. RICHARD MANNING)

Respectfully report as follows: That HOUSE Bill No. 427,
Third Reading bill (blue copy), be amended as follows:

1. Page 2, line 3.
   Strike: "The"
   Insert: "(1) Except as provided in subsection (2), the"
   Renumber: subsequent subsections as (a) through (d)

2. Page 2.
   Following: line 25
   Insert: "(2) The responsibilities of the director under this section do not apply to the office of the superintendent of of public instruction, and that office is exempt from the requirements of this section."

And, as so amended,
BE CONCURRED IN

~~REXXXX~~

PETE STORY, Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

March 11 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE BILL Bill No. 873

J. Brown (Marbut)

Respectfully report as follows: That House Bill 873 Bill No.

Third reading bill (blue copy) be amended as follows:

1. Title, line 11.
   Following: "AGING"
   Insert: "AND REQUIRING THE GOVERNOR TO APPOINT AN ADVISORY COUNCIL ON AGING AND A COORDINATOR ON AGING; PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 1, line 17.
   Following: line 16
   Insert: "(2) The governor shall appoint an advisory council on aging. The council is composed of 11 members, a majority of whom must be 60 years of age or older. Members shall serve for 3-year terms. Vacancies shall be filled by appointment for the unexpired term. The council is allocated to the governor's office for administrative purposes only."
   Renumber: subsequent subsections

3
~~XXXXX~~

(CONTINUED)

Chairman.

STATE PUB. CO.
Helena, Mont.

HC

Committee on State Administration
Page 2
House Bill 873

3. Page 1, line 18.
   Strike: "FROM RECOMMENDATIONS FROM"
   Insert: "after consultation with"

4. Page 1, line 20.
   Following: line 19
   Strike: subsection (3) in its entirety
   Insert: "(4) The advisory council on aging shall act as the advisory board to the coordinator on aging."

5. Page 1, line 25.
   Following: "shall"
   Insert: ",with the advice and consent of the advisory council on aging,"

6. Page 2
   Following: line 9
   Insert: "Section 3. Effective date. This act is effective on passage and approval."

And, as so amended,
BE CONCURRED IN

STATE PUB. CO.
Helena, Mont.

SENATOR PETE STORY Chairman.

STANDING COMMITTEE REPORT

March 11 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 721

Wallin

Respectfully report as follows: That HOUSE Bill No. 721

Third reading bill (blue copy) be amended as follows:

1. Page 3, line 20.
   Following: "any"
   Insert: "public or"

2. Page 3, lines 21 and 22.
   Strike: "institution or public hospital or institution"
   Insert: "other organization"

3. Page 4, lines 4 through 14.
   Strike: subsection (6) in its entirety
   Renumber: subsequent subsection

4. Page 5, line 25 and page 6, line 1.
   Strike: "BY A HEALTH INSTITUTION"

~~XXXXXXX~~

(CONTINUED)

Chairman.

STATE PUB. CO.
Helena, Mont.

HC

5. Page 12, line 16.
   Strike: "facility"
   Insert: "participating health institution"

6. Page 14, line 7.
   Strike: "convenants"
   Insert: "covenants"

7. Page 14, line 16.
   Following: "PERIOD"
   Strike: remainder of line 16 through "them" on page 15, line 1.

8. Page 16, line 15.
   Strike: "eligible"
   Insert: "participating"
   Strike: "facility"
   Insert: "institution"

9. Page 21, line 5.
   Strike: "FACILITY"
   Insert: "institution"

And, as so amended,
BE CONCURRED IN

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

March 11, 19 83

MR. PRESIDENT:

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 231

REP. BRAND (SEN. RICHARD MANNING)

Respectfully report as follows: That HOUSE Bill No. 231,
3rd Reading bill (blue copy) be amended as follows:

1. Page 6, line 21
   Strike: "19-3-704(1)(B)"
   Insert: "19-13-704(1)(b)"

And, as so amended,
BE CONCURRED IN

~~DO PASS~~

PETE STORY, Chairman.

STATE PUB. CO.
Helena, Mont.

HC

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

March 14, 1983

The fourth-sixth meeting of the Senate State Administration Committee was called to order by Senator Pete Story, Chairman, on the 14th day of March 1983 in room 331 at 10:00 a.m. in the State Capitol Building in Helena, Montana.

ROLL CALL: Roll was taken and all members were present but Senator Lee.

The meeting was called to hear House Bills 151, 222, 296, 674 and 688.

CONSIDERATION OF HOUSE BILL 151:
"AN ACT TO SUBMIT TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE V. SECTION 14, OF THE MONTANA CONSTITUTION TO PROVIDE THAT THE CONGRESSIONAL DISTRICTS IN MONTANA BE RE-DISTRICTED WITHIN 90 DAYS AFTER THE OFFICIAL FINAL DECENNIAL CENSUS FIGURES ARE AVAILABLE: AND PROVIDING AN EFFECTIVE DATE."

REPRESENTATIVE RAY PECK, District 8, Havre, Montana, presented this bill. This bill endorses the act to submit to the qualified electors the question of changing the time frame for congressional redistricting. Montana and Maine were the last two states working on this. In the last election, had either of the congressional house races been within 15 votes there would have been a court case. We are not in proper balance. Current law has both congressional and state redistricting in one action and one filing. This bill separates those and says within 90 days after receiving official census information the apportionment commission will have made their filing.

CONSIDERATION OF HOUSE BILL 222:
"AN ACT AMENDING SECTIONS 5-1-101, 5-1-106, and 5-1-108 through 5-1-111, MCA, TO PROVIDE STATUTORY CONFORMITY TO THE CONSTITUTIONAL AMENDMENT TO ACCELERATE MONTANA'S CONGRESSIONAL REDISTRICTING PROCESS; AND PROVIDING A CONTINGENT EFFECTIVE DATE."

REPRESENTATIVE PECK, District 8, said that House Bill 222 is statutory changes necessary to implement House Bill 151. It simply separates the two processes so the legislative redistricting is separate from the congressional redistricting.

PROPONENTS: None.

OPPONENTS: None.

QUESTIONS OF THE COMMITTEE:

SENATOR STORY asked how many votes did this get in the House?

REPRESENTATIVE PECK said it was unanimous with three members absent. He closed on H.B.151 and H.B.222.

Dave Cogley stated that an amendment is needed on House Bill 222 to coordinate with House Bill 151.
Page 3, line 16
Strike: "at the November 6, 1984, general election"

SENATOR TOWE MOVED THE ABOVE AMENDMENTS.
MOTION PASSED.

CONSIDERATION OF HOUSE BILL 296:
"AN ACT TO TRANSFER THE BOARD OF VETERANS' AFFAIRS FROM THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO THE DEPARTMENT OF MILITARY AFFAIRS: RENUMBERING SECTIONS..."

REPRESENATIVE HAL HARPER, District 30, presented this bill by saying that under reorganization, the board found itself under SRS and according to testimony that he has heard that is the only reason it found itself under that department at that time. It only makes sense that a light function goes under a light department. This board was established in 1981 and will not sunset until 1987. There is a cost savings that will be realized.

PROPONENTS:

GENERAL JIM DUFFY, Director of the Department of Military Affairs, confirmed Representative Harper's statements and asked that H.B. 296 Do Pass.

JUDITH CARLSON, Deputy Director of Department of Social Rehabilitation, said they have enjoyed their association with the Board of Veterans' Affairs but recognized the need of transfer.

TOM CUMMINGS, State Adjutant of the American Legion said they are taking this into consideration themselves and feel the board will be best served in the Military Affairs.

BOB DURKEE, Veterans of Foreign Wars, stated that they favor passage of H.B. 296.

MICHAEL WOLF, Administrator of the Veterans' Affairs Commission, said that he concurred with the statements made.

OPPONENTS: None

QUESTIONS OF THE COMMITTEE: None. CLOSED ON H.B. 296.

SENATOR HAMMOND MOVED H.B. 296 BE CONCURRED IN. MOTION PASSED. Senator Hammond will carry this bill.

CONSIDERATION OF HOUSE BILL 674:
"AN ACT REQUIRING THAT WORKERS' COMPENSATION BENEFITS RECEIVED BY A MEMBER OF THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM BE INCLUDED AS PART OF THE MEMBER'S MONTHLY COMPENSATION RECEIVED DURING A DISABILITY PERIOD FOR THE PURPOSES OF DETERMINING CONTRIBUTIONS AND SERVICE CREDITS UNDER THE RETIREMENT SYSTEM; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

REPRESENTATIVE MC BRIDE, District 85, presented this bill at the request of the Public Retirement System. This bill allows for contributions to the firefighters unified retirement system while a firefighter is disabled. They want to make sure that if the firefighter is going to receive the total credit for the years that there is in fact a contribution for those creditable years. This will allow for contributions to be made not only for the portion he would receive from the city but also for a contribution from what he would receive from workmens' compensation. She stated a situation where a particular person went on workers' compensation thinking he would go back to work but instead retired due to doctors orders. He did not have the full contribution in the retirement system, his retirement was low.

PROPONENTS:

LARRY NACHTSHEIM, Department of Administration, PERD, presented testimony, EXHIBIT 1.

MIKE WALKER, Montana Council of Firefighters, testified and gave the circumstances of the individual Representative McBride referred to and stated his support of the bill.

QUESTIONS OF THE COMMITTEE:

SENATOR STORY asked if the city pays the workmens' compensation?

Mr. Nachtsheim said that the city of Butte sent the contribution based on his normal salary but they cannot use it because he only paid 30% of his salary.

SENATOR TOWE asked where it says the city must pay workmens' compensation. He read from the codes and the bill.

MR. NACHTSHEIM said that they have an agreement outside the statutes.

SENATOR TOWE asked if all of them have that agreement.

MR. NACHTSHEIM said that Billings does not, they took it out.

SENATOR TOWE stated, then those people in Billings get nothing, is that right.

MR. NACHTSHEIM said in Billings, they would only get 67% of service. This will only go for a year as employee status and they would then come under the retirement. The pension has a disability clause. CLOSED ON H.B.674.

ACTION ON HOUSE BILL 674:
SENATOR TOWE MOVED H.B.674.
MOTION PASSED. Senator Manning will carry this bill.

CONSIDERATION OF HOUSE BILL 688:
"AN ACT ESTABLISHING PROCEDURES FOR TRANSFERRING SERVICE CREDITS BETWEEN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND TEACHERS' RETIREMENT SYSTEM; AMENDING..."

REPRESENTATIVE SALES, District 79, introduced H.B.688 and said it deals with the transfer when a person wants to transfer from teachers' retirement to PERS or visa-versa and determines the effect on the two boards when this transfer is made so no one will get stuck. See attachment following EXHIBIT 1.

PROPONENTS:

LARRY NACHTSHEIM, Administrator Public Employees' Retirement Division, presented testimony, EXHIBIT 2.

BOB JOHNSON representing Teachers' Retirement System stated that he does support the bill for basically the same reasons Mr. Nachtsheim and Representative Sales indicated. He said there are two differences in their section of the law; one that provided that members would have to have 5 years in the teachers' retirement system in order to qualify for military service and out-of-state teaching service while on leave. This is not available in PERS and we do not think we should have the liability for that service until they have completed the 5 years in their system. The second section that differs is, in the event, to determine if a member is improperly classified, the employeer would have to remit to the teachers retirement the difference in contributions.

There were no other proponents.

OPPONENTS: None

QUESTIONS OF THE COMMITTEE:

SENATOR MARBUT asked which board, on lines 21 and 22.

MR. NACHTSHEIM said that the first section is Public Employment Retirement Board and the second section is the Teachers' Retirement Board.

SENATOR HAMMOND asked if he were sure both will be in better shape.

MR. JOHNSON replied "yes".

SENATOR HAMMOND asked if they have had situations where they move from one system to the other.

MR. JOHNSON said that they have people, like in the university system, where their membership classification may be a gray area, they may be an administrative officer but in PERS they know the teachers' retirement gets free military service. This will correct that. CLOSED ON H.B.688.

ACTION ON HOUSE BILL 688.
SENATOR HAMMOND MOVED H.B.688
MOTION PASSED. Senator Hammond will carry the bill.

EXECUTIVE SESSION:

ACTION ON HOUSE BILL 151:
Dave Cogley presented Senator Towe's amendment and Senator Marbut's amendments.

SENATOR MARBUT MOVED THE FOLLOWING AMENDMENTS:

1. Page 3, line 12.
   Following: "available"
   Insert: "and eliminating provisions for legislative comment"

2. Page 3, line 15.
   Following: "available"
   Insert: "and eliminating provisons for legislative comment"

MOTION PASSED.

MOTION WAS MADE BY SENATOR MARBUT HOUSE BILL 151 BE CONCURRED IN AS AMENDED.
MOTION PASSED. Senator Marbut will carry this bill.

ACTION ON HOUSE BILL 222:
SENATOR MARBUT MOVED THE AMENDMENT.:
Page 3, line 16.
Following: "elected"
Strike: "up to November 6, 1984"
MOTION PASSED.

SENATOR HAMMOND MOVED HOUSE BILL 222 AS AMENDED PASS.
MOTION PASSED.

ACTION ON HOUSE BILL 199:
There was discussion of the bill. It was mentioned that they should be aware of 10-3-103, disruption of state services. Dave Cogley, legal staff, brought out the question of the coverage by workers' compensation of people involved while on duty. Presently they are not able to be because of the striken language. He presented a letter from Workmans' Compensation. EXHIBIT 3.

SENATOR MARBUT MOVED H.B. 199 BE CONCURRED IN.
MOTION PASSED. Senator Stimatz voted "no". Senator Marbut will carry the bill.

ACTION ON HOUSE BILL 107: HOLD.
This was discussed and the decision was to hold it.

ACTION ON HOUSE BILL 528: HOLD.
The decision was to hold this bill so the amendments can be compared.

ACTION ON HOUSE BILL 776:
SENATOR HAMMOND MOVED THE AMENDMENTS TO H.B. 776, EXHIBIT 4.
MOTION PASSED.
SENATOR STIMATZ MOVED H.B.776 BE CONCURRED IN AS AMENDED.
MOTION PASSED. Senator Stimatz will carry the bill.

ACTION ON HOUSE BILL 329: HOLD.
Discussion was heard. Senator Story stated the Lombardie and Harper trial.
SENATOR TOWE MOVED HOUSE BILL 329 BE CONCURRED IN.
More discussion led to having the bill held until the next meeting.

The meeting adjourned at 11:30 a.m.

CHAIRMAN, Senator Pete Story

ROLL CALL

STATE ADMINISTRATION COMMITTEE

48th LEGISLATIVE SESSION -- 1983 Date 3/14/83

NAME	PRESENT	ABSENT	EXCUSED	SENATE SEAT #
SENATOR PETE STORY, Chairman	X			45
SENATOR H. W. HAMMOND, Vice Ch	X			34
SENATOR REED MARBUT	X			44
SENATOR LARRY TVEIT	X			33
SENATOR R. MANNING	X			48
SENATOR LAWRENCE STIMATZ	X			7
SENATOR THOMAS TOWE	X			26
SENATOR GARY LEE				11

Each day attach to minutes.

HOUSE BILL 674 - McBride

3/14/83

EXHIBIT 1

State Adm.
3/14/83

This bill is proposed to permit the retirement division to comply with practices currently found in local negotiated contracts. In 1981 when the Unified Firefighters' Act was passed, no consideration of this issue was included.

The effect of the bill is to permit a disabled firefighter to continue his contributions to the system and permit the city to make their contributions on both the workers' compensation benefit and the supplemental payment made by the city to bring firemen up to 100% of base salary. This is critical to firemen who retire because of their disability as the duration of the disability payments are limited to one year and this is the base year for retirement calculations; the immediate year prior to retirement.

In the case that brought this to our attention, it reduced the firemen's pension by about $105 dollars per month; instead of $717.50, the disabled firefighter is receiving $612.65.

This is the only case in the past 20-month period since the inception of the firefighters' system.

This bill will correct this inequity for this fireman and place the fire system on the same basis as current members of the police officers' system.

Larry Nachtsheim
PERD
Proponent

ATTACHMENT FOLLOWING
EXHIBIT 1
State Adm.
3/14/83

HOUSE BILL 688 - Sales

This bill introduced at the request of the Public Employees' Retirement Division, was drafted in concert with the Teachers' Retirement System.

It repeals the current general statute found in 19-3-507 defining the procedures for transfer of credits between the two systems and provides specific criteria for service credits and amounts to be transferred between the systems.

Section 1 - provides the method for transferring credits from TRS to PERS.
Section 2 - provides the method for transferring credits from PERS to TRS.
Section 3 - deletes a cross citation to the repealed section and is no longer pertinent.
Section 4 - is the repealer of 19-3-507.
Section 5 - is the codification instructions.
Section 6 - provides an effective date of July 1, 1983.

HOUSE BILL 688 - SALES -

EXHBIT 2
State Admin.
3/14/83

3/14/83
Proponent

Larry Nachtsheim - Administrator
Public Employees' Retirement Division

February 14, 1983

This bill repeals section 19-3-507, the current provision for transferring credits between the Public Employees' Retirement System and Teachers' Retirement System. The current statute is very general and permits the two systems to make transfers determined by mutual agreement of the two Boards.

Both systems are subject to legal interpretation of the statute by two outside authorities--the Attorney General through Attorney General Opinion and the Courts through case law.

In the past, both outside authorities have interpreted statute in one system, which has created liabilities for the other systems; due to employees that have transferred.

In this proposed bill, drafted jointly by the Public Employees' Retirement System and Teachers' Retirement System, the amount of service credit and the method of finance has been defined in such a manner that court decisions with retroactive effect in one system will not create any liability for the second system.

Section 1 details the procedures for transfers from Teachers' Retirement System to Public Employees' Retirement Division. One page 2, line 10, we have defined the amount of the employees contributions required for transfer from Teachers' Retirement System to Public Employees' Retirement Division as the amount the employee withdrew from Teachers' Retirement System. Here, the employee received the same credit in the Public Employees' Retirement System as they enjoyed in Teachers' Retirement System for the same employee cost on a month-for-month basis (page 2, line 17). Any additional cost for assuming the liability is paid by the Teachers' Retirement System to the Public Employees' Retirement System, based on the assumption that Teachers' Retirement System has received required funding for all current creditable service (Page 2, line 5).

On page 2, line 21, the authority for determining the amount of service creditable to Public Employees' Retirement System is placed with the Public Employees' Retirement Board.

In the event of death while a transfer of credit from Teachers' Retirement System to the Public Employees' Retirement System is being made, the remedies of the employee's beneficiary are detailed on page 3, line 1.

Section 2, with minor differences, reflects the transfer of credits from the Public Employees' Retirement System to Teachers' Retirement System.

adopted

HB 776 (3rd reading)

EXHIBIT 4
State Adm.
3/14/83

1. Title, line 8.
   Strike: "AND AIRCRAFT"

2. Page 6, line 15
   Strike: "WHOSE PRINCIPAL BUSINESS IS aviation"

3. Page 6, lines 20 and 21
   Following: "(e)"
   Strike: remainder of lines 6 and 7 in their entirety
   Insert: "one representative of the Montana airport management association;"

4. Page 14, line 15
   Strike: "AND AIRCRAFT"

5. Page 14, line 16
   Strike: "AND AIRCRAFT"

EXHIBIT 3
State Admin
3/14/83

DIVISION OF WORKERS' COMPENSATION

TED SCHWINDEN, GOVERNOR

815 FRONT STREET

STATE OF MONTANA

HELENA, MONTANA 5960

Re HB 199

March 4, 1983

Captain Kenneth E. Cottrill
Centralized Service Administrator
Department of Military Affairs
Army National Guard Headquarters
Helena, Montana

Re: Coverage of National Guard personnel

Dear Captain Cottrill:

This letter will confirm our telephone conversation earlier today concerning the matter referenced above.

House Bill No. 199, by Section 13, repeals Section 10-1-504, Montana Code Annotated. You indicated to me during our telephone conversation a concern that the repeal of this section may not effect the result you desire, namely, that a member of the organized militia who is injured while performing services for the State of Montana be eligible for workers' compensation benefits. At that time, I indicated to you my belief that the only impediment to the receipt of workers' compensation benefits was this particular statute and that with its repeal the eligibility for workers' compensation benefits was thereby created.

Sincerely,

WILLIAM BAILEY DUNN
Chief Legal Counsel

WBD/nmb

appeared to

3832

AN EQUAL OPPORTUNITY EMPLOYER

STANDING COMMITTEE REPORT

MARCH 14 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 296

Harper (Hammond)

Respectfully report as follows: That HOUSE Bill No. 296

BE CONCURRED IN

~~XXXXXXX~~

SENATOR PETE STORY
Chairman.

STATE PUB. CO.
Helena, Mont.

1/6

STANDING COMMITTEE REPORT

MARCH 14 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 674

McBride (Manning)

Respectfully report as follows: That HOUSE Bill No. 674

BE CONCURRED IN

~~DO PASS~~

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

MARCH 14 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 688

Sales (Hammond)

Respectfully report as follows: That HOUSE Bill No. 688

BE CONCURRED IN

~~XXXXXXXX~~

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

MARCH 14 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 222

Peck (Marbut)

Respectfully report as follows: That HOUSE Bill No. 222

third reading, be amended as follows:

1. Page 3, line 16.
   Strike: "at the November 6, 1984, general election"

And, as so amended
BE CONCURRED IN

~~DO NOT PASS~~

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

MARCH 14 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 199

Addy (Marbut)

Respectfully report as follows: That HOUSE Bill No. 199

BE CONCURRED IN

~~DO PASS~~

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

MARCH 14 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 151

Peck (Marbut)

Respectfully report as follows: That HOUSE Bill No. 151

third reading, be amended as follows:

1. Page 3, line 12.
   Following: "available"
   Insert: "and eliminating provisions for legislative comment"

2. Page 3, line 15.
   Following: "available"
   Insert: "and eliminating provisions for legislative comment"

3. Page 3.
   Following: line 15
   Insert: "Section 4. Coordination instruction. If H.B.629 introduced in the 48th Legislature is not passed and approved, the date 'November 6, 1984' in section 3 of this act is changed to 'November 8, 1983'."

And, as so amended
BE CONCURRED IN
~~BE NOT AS~~

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

MARCH 14 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 776

SHONTZ (STIMATZ)

HOUSE 776

Respectfully report as follows: That Bill No.

third reading, be amended as follows:

1. Title, line 8.
   Strike: "AND AIRCRAFT"

2. Page 6, line 15.
   Strike: "WHOSE PRINCIPAL BUSINESS IS aviation"

3. Page 6, lines 20 and 21.
   Following: "(e)"
   Strike: remainder of lines 6 and 7 in their entirety.
   Insert: "one representative of the Montana airport management association;"

DO ~~PASS~~ XXXXX

CONTINUED...

Chairman.

STATE PUB. CO.
Helena, Mont.

MARCH 14 19 83

4. Page 14, line 15.
Strike: "AND AIRCRAFT"

5. Page 14, line 16.
Strike: "AND AIRCRAFT"

And, as so amended
BE CONCURRED IN

Chairman.

STATE PUB. CO.
Helena, Mont.

SENATOR DENE SMOOT